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DOCUMENTS

OF THE

SENATE

OF THE

STATE OF NEW YORK,

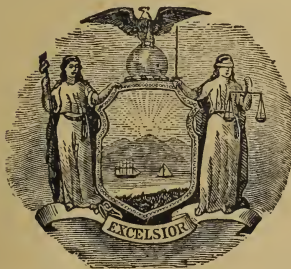
ONE HUNDRED AND FOURTEENTH SESSION,

1891.

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VOLUME IX.--No. 80—PART III.

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ALBANY :

JAMES B. LYON, STATE PRINTER,

1891.





TESTIMONY

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TAKEN BEFORE THE

1891 9th 3

SENATE COMMITTEE ON CITIES,

PURSUANT TO

RESOLUTION ADOPTED JANUARY 20, 1890.

VOLUME III.

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TRANSMITTED TO THE LEGISLATURE APRIL 15, 1891.

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ALBANY:

JAMES B. LYON, STATE PRINTER.

1891.

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By Mr. IVINS (resuming):

Q. Now, after you have granted a license to a new party who has come into possession through the bill of sale from an old party whose license has been revoked, do you make any inspection whatever of the place to see how it is being run? A. The inspector's duty is to make an inspection of that every day — every week, in going around his district; there are two or three annual inspections, I think, that take place, ordered by the board to go around and ascertain all they can from the various places [question and answer read by the stenographer]; I will take back "every day;" every week; every month, in his usual round in the precinct.

Q. What do you mean by the inspectors' duty in making the rounds of his precinct? A. Step into make inquiries.

Q. Is there any rule which requires that sort of inspection to be made? A. Not that I know of — written rule.

Q. Is there any specific instruction to inspectors to make inspection as to the manner in which a licensed party is conducting his business? A. They have been instructed by the president, in my hearing, to drop in and inquire, if I remember correctly.

Q. I ask you that question because the chief inspector and the deputy chief inspector have both said that they have no such duty. A. The question is with me; I assume it is the duty of the inspector to ascertain and inquire.

Senator FASSETT.—It amounts to this, Mr. Commissioner: After having granted a license, does your duty cease, or has it only fairly begun; do you have a continuing duty over the licensee and his place to see that he keeps within the law? A. I expect he has; yes, sir.

By Mr. IVINS (resuming):

Q. In other words, you have the duty of surveillance of this traffic quite as much as the duty of granting licenses? A. To that extent the inspector has a right to go and ascertain whether the place has changed hands, whether the party that applied for the license and to whom it was granted is conducting the place properly.

By Senator FASSETT:

Q. You do not regard then that that is solely the duty of the police department? A. Yes; I think it is part of their duties.

Q. But not exclusively theirs? A. Because, for instance, our inspector is supposed to be on duty only so many hours of the day; the police are on all hours, day and night.

By Mr. IVINS:

Q. Do you consider that your board is responsible for the manner in which the liquor traffic in New York city is conducted? A. No, sir.

Q. You do not; your first statement seemed to indicate the impression that you were responsible for the conduct of the liquor business in New York; your second statement it seems does not. A. I didn't mean to make that statement that way; I said it was the duty of the inspector to ascertain whether any changes had been made, and whether the party who applied for the license and to whom it is granted is conducting the place as he should do; if there is any violation of the excise, or any violation of the police regulations, I think that properly belongs to the police.

Q. Having the right to license and the duty to revoke in certain cases, where does your duty end; is it not the duty of the excise board to supervise this whole traffic, to see whether or not causes for revocation do not arise? A. In what way?

Mr. JOHNSON.—The law provides what their duty is in so many words.

The WITNESS.—Where there is an inspector night and day should go into a place after lawful hours and find that man selling, he would be compelled then to go and have the man arrested; he could not go and make the arrest himself; he would be compelled to go and have the man arrested; he might make a complaint the following day to the board, and we would summon him and take his evidence against the proprietor.

Q. Would you have the authority under the law to send an inspector to a certain place to see whether there were violations? A. We would have that right; yes; any citizen has that right.

Q. Suppose I were licensed, and rumors came to you that I was selling all day Sunday, or selling to minors; would you have a right to send an inspector there to look into it? A. On Sunday?

Q. Yes. A. I don't know that I would have the right; no, I don't hardly think I would.

Q. Suppose I was selling after hours, would you have the right to send an inspector there to look into it? A. If I wanted information to revoke the man's license; if I thought he wasn't a proper person, was not conducting properly, I think I would have the right to send anybody, a citizen or inspector.

Q. Suppose I was selling to a minor, right in the middle of the day; you heard I was corrupting little boys or girls, would you have a right to send your inspector there to find out? A. Yes; send any citizen, or go there myself.

Q. Now, it being the case, when does your duty to send inspectors around cease; where does it cease?

Mr. JOHNSON.—My friend is asking a lot of questions as to the witness' opinion.

Senator FASSETT.—Any citizen has a right to send anybody to investigate any saloon during legal hours.

Mr. JOHNSON.—That is a different question. He is asking him if he has authority conferred upon him by law as excise commissioner.

Senator FASSETT.—He is not deprived of these privileges because he is excise commissioner. Now, then, another question arises; does he have explicit duties put upon him by the statute in these directions?

The WITNESS.—No, sir; they are not.

Senator FASSETT.—If he has not, ought he to have; and, having the privileges, is there any duty that he is called upon to perform in that connection; if there is not a duty, ought such a duty to be imposed?

The WITNESS.—There is no duty, so far as I know, in regard to it, part of my duty to do that; I think it is considered more of a police regulation.

Mr. BROWN.—The General Term of the Supreme Court in this department has decided in broad terms that the only duty of the commissioner is to grant or revoke licenses, and there their duty begins and ends, I think.

Senator FASSETT.—With all that implies.

Mr. IVINS.—Does the duty to revoke a license imply the duty to send an inspector to find out whether or not the place is by any means being misconducted, after complaint has been made, for instance?

Mr. JOHNSON.—How can Mr. Fitzgerald decide that question?

Senator FASSETT.—He must decide it in every act of his official line.

Mr. IVINS.—I never heard such a proposition as this in my life, that a man sworn to administer a law can not be asked to explain what he understands the law to be, to administer which he is sworn.

Mr. JOHNSON.—Well, I never heard in my life that a man's understanding, if your honor please—I am afraid my friend's attention to politics has taken him away from the law—that a man's understanding was evidence of anything. He may tell the facts, and the court and jury understand what it is. My friend Ivins asked this question, whether it was not his duty to do something under the law? Now, I say, if your honor please, he is not to decide whether it is his duty under the law or not.

Senator FASSETT.—Mr. Ivins can change the question to this form.

Mr. JOHNSON.—I admit the question the committee has put is the proper question, but the question my friend asks is a conclusion as to what the law imposed upon him.



Mr. IVINS.—I asked nothing of that kind, and even if I had asked it, it would have been entirely pertinent, perfectly proper.

Mr. JOHNSON.—I say it would not. That is where we disagree about it.

Mr. IVINS.—The point it is necessary to get out is this: The counsel states they have no duty as commissioners, and that they have no right as commissioners of excise to send an inspector to make this particular kind of an inspection under the particular circumstances that I referred to. Now, if they have not, it is for this committee to find it out. Then it remains to be seen whether or not they ought to have it.

Mr. JOHNSON.—The committee find it out by examining the law.

Mr. IVINS.—No; we will examine the witness.

By Mr. IVINS (resuming):

Q. Now, in your judgment, Mr. Commissioner, ought the commissioners of excise of this city, as commissioners of excise, to have the right and authority and the duty to send inspectors to make such inspections as that; do you think they ought to have? A. I do.

By Senator FASSETT:

Q. Now, as matter of fact, don't you exercise that right; do you send the inspectors, after issuing a license, to investigate how the place is being conducted, with reference to revoking the same? A. Upon complaints we do.

Q. Upon complaints? A. Yes, sir; I believe it the duty of the inspector, in making his daily walks around the district, to give all the attention he can to ascertain whether a place is properly conducted.

Q. In your practice, as you discharge the obligations of your office, is it the business, as your department considers it, to see to it that the entire liquor business is conducted within the law after you have given the license, as well as before? A. I think that that portion properly belongs to the police.

Q. It is not part of your duty to have the inspectors go into licensed places? A. I suppose they do; I understand they do.

Q. Do your inspectors — by exercising this privilege of occasionally dropping in and seeing everything is going right, it would be quite an annoyance to him, would it not? A. Not unless the man was violating the law.

Q. Do you have any complaints from saloon keepers that the inspectors are annoying them? A. No; we have had complaints in this way, Senator: That the saloon keeper had complained that the inspec-



tor had intimated to them that a consideration or the like of that would be the proper thing; we have had those.

Q. That is, saloon keepers have given you this complaint: That the inspectors were intimating that they might be complained of if they did not pay them a little something? A. Yes; we have investigated those matters, and where we have had the charges or allegations substantiated we have discharged the inspectors.

Q. Have you made any such discharges? A. Five or six; I do not know how many.

Q. That is one of the abuses incident to the discharging of the duties of inspector, is it? A. Yes; I think they are a class of men that is more subject to temptation than any other class in this community; they are tempted at times; they have no disposition or intention of demanding anything or asking anything.

By Mr. IVINS:

Q. Mr. Fitzpatrick, Mr. Gale, when on the stand, testified that the duties of the inspectors consisted, first, to make the special inspections which were allotted to them to make prior to the granting of the license of any specific place; second, that two inspections were made at any time; that is, general inspections over the entire city for the purpose of checking off the accuracy of the books of your department; he testified, as I understood it, that the inspectors had to make no other inspections than that, except that it being in or about their precincts, if anything came to their attention they will note it; now, I want to ask whether any instructions are given to the inspectors to generally keep a supervision or surveillance in their precincts in the manner in which the liquor business is conducted by licensees of the board? A. I do not think it is a part — no instruction given; no, sir; might be special instructions in particular cases.

Q. Yes; but I mean generally; so far as their continuous general supervision is concerned then on the part of your inspectors, it does not exist? A. I can not say that it does; but if I were an inspector I would feel it — well, I wouldn't say legally or lawfully incumbent upon me, but I would feel that it was my duty to see whether a place was properly run or not.

Q. Is the territorial jurisdiction of an inspector such as to make him in any sense responsible for failure to discover irregularities in the conduct of the business in any particular precinct? A. No; I do not know as the districts are so large as that.

Q. Is it not a fact that several inspectors are allotted to the same precinct? A. No; two is the greatest number.

Q. Two the greatest number to each precinct? A. Not to each precinct; some precincts have only one.

Q. If you should discover some day that some man — let us say in the twenty-ninth precinct — were selling in violation of law, you wouldn't hold your inspector responsible for not having discovered that, would you? A. No, sir.

Q. Then, in reality the inspectors do not perform — and have not imposed upon them the performance of, the duty of general supervision? A. Well, not imposed upon them; I feel that they had ought to look around and see whether places are changing owners and whether places are conducted properly; I do not know that it is a duty imposed upon them to do it; I think that duty devolves upon the police.

Q. Don't you think it would be an improvement upon this system if the general supervision of the conduct of the business were not left so entirely to the police as it is and were put more largely into the hands of the excise board? A. I do not.

Q. Why not? A. Because the inspectors are only out on duty days; they are supposed to retire to their homes at four o'clock, and anything that occurs between that and twelve they hadn't ought to be held responsible for.

Q. Is there any reason why sufficient inspectors should not be had to do the duty in the same way which the policemen do their duty? A. I am not thoroughly versed enough in the law to explain the difference.

Q. I am asking you as a matter of judgment.

Senator FASSETT.—He is asking you for your opinion as an expert, as it were; whether it would not be an improvement in the way this business is conducted in the city, if the powers of the commission were extended or amplified so as to cover the business from the beginning of a license to its termination, to watch over it to see that the license was properly fulfilled; the law was obeyed.

The WITNESS.—Providing you would increase the number of employes.

Mr. IVINS.—I think I can illustrate it in this way: The commissioner of street cleaning asked last winter to have a law passed which would permit the board of police to place a certain number of policemen at his disposal, which particular officers should have the particular duty of seeing to it that certain of the city ordinances were not broken. Those people are still members of the police department, but at the same time they are specialized, so to speak; they are turned off to a particular duty. Now, what do you think as to the

desirability of having the excise board given larger and fuller power in the matter of policing and the police regulations of the liquor traffic, as well as in the matter of granting a license and revoking it. Of course, if it were done you would have to have enlarged means to enable them to do it. We grant that.

THE WITNESS.—Well, you would have to qualify them in that way; if they violated the law by changing owners, without the consent of the excise commissioners, that would be a proper subject to come under the inspection, upon such as you designate, or if they went in there at an unseasonable hour; I think it would be well to have them so authorized and empowered so as to either arrest or make a complaint.

SENATOR FASSETT.—I don't think you get the full scope of the question. It may be there is nothing in the suggestion at all. It is simply to get your experience. In your opinion, from your experience, would you deem that the city would be better served, that quiet and peace would dwell more among us, if the police department should be invaded in its present prerogatives to this extent; that the entire policing of the liquor traffic should be put over into the hands of the board of excise commissioners rather than left where it now is with a divided responsibility?

THE WITNESS.—No; I do not think it would work well to have the police powers entirely taken away from the police department.

By MR. IVINS:

Q. To put it concretely in this form, Mr. Chairman — A. I don't think you can do it, because you would have to have a corps of men standing, walking and perambulating the various districts same as the police do; I don't think you can do it.

Q. Why should you have that? A. More properly a part of the duty of the police, because they have authority and control over all violations of the law.

Q. Don't you know that the administration as now conducted by the police department is almost a complete failure so far as concerns the ultimate punishment for violation of the liquor laws? A. I don't know as it is part of their responsibility at all; they make arrests and I think after they make the arrests for violation of the law, I don't know as they have any right to proceed any further; let the other authorities take charge of it then and conduct it.

Q. We have got somehow to get at the jist of this thing; there are arrests for the violation of the law to the extent of many thousands in this city; the assumption is that those arrests are properly made;

the assumption is that there has been a violation of the law; so far as the excise commissioners are concerned, so far as the police commissioners are concerned, the presumption is that the officer of the law has acted within his duty; they can not get those on trial; the only recourse is a revocation of the license; now, if the commissioners were to summon the parties against whom the police make a complaint, and try the question looking to the ultimate revocation of a license, the law would be very readily enforced; that is not done; if they really were put in charge of this work and had their own staff of men to do it so that they could produce the proofs, you would not have to send people to check or impose a penalty in order to see that the law was enforced; all you would have to do would be to revoke the license.

Senator FASSETT.—In the light of the suggestions Mr. Ivins made, I would like to say to you, Mr. Fitzpatrick, that this committee is in search of suggestions as to what changes in the law will enable it possibly to secure the better administration of this department, and if you will take advantage of the recess to consider whether you have any suggestions to make, we will be very much obliged. We will adjourn until to-morrow morning at half-past 10.

Adjourned until October 7, 10.30 A. M.

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NEW YORK, TUESDAY MORNING, *October 7, 1890.*

Present—Senators Fassett, Stewart, Ahearn and McNaughton.

Mr. IVINS.—Mr. Johnson tells me that Commissioner Fitzpatrick is ill this morning and not able to be here, which being the case, we will suspend his examination and call Commissioner Koch.

Senator FASSETT.—Have you any other witness to call, Mr Ivins?

Mr. IVINS.—I think probably Mr. Koch will take the entire session to-day.

Mr. JOHNSON.—The only thing to say about Commissioner Koch is that he starts out sick; he is sick in advance.

Senator FASSETT.—Do you think, Mr. Ivins, it will be safe to excuse the other witnesses on the expectation that Mr. Koch will take the morning?

Mr. IVINS.—I think so.

Senator FASSETT.—Very well, I think it will be only fair; if there are any other witnesses who have been subpoenaed for this morning they will be excused until to-morrow morning at half-past 10 o'clock.

Mr. IVINS.—I don't think that any new subpoenas were issued for



to-day at all; Mr. Gale and Mr. Bishop had better stop here, because the commissioner may need them, and so may we.

Senator FASSETT.—Do you desire Mr. Gale this morning?

Mr. IVINS.—Yes.

JOSEPH KOCH, being duly sworn, testifies as follows:

By Mr. IVINS:

Q. Where do you live? A. I reside at 706 Madison avenue.

Q. Are you now one of the commissioners of excise? A. Yes, sir.

Q. How long have you been an excise commissioner? A. Since May, 1889.

Q. Whom did you succeed? A. I succeeded one of the commissioners of the commission which was comprised of John Von Glahn, William H. Woodman and William S. Andrews.

Q. Charles H. Woodman, you mean? A. I think it was Charles H. Woodman.

Q. Will you now, as preliminary to any interrogatories, describe to the committee the organization and operations of your board? A. The organization consists of the president and treasurer of the department; the board has powers, executive and judicial; the executive powers consist in passing upon applications which are made to an application clerk, referred to the chief inspector, by him referred to one of the subordinate inspectors, who is expected to make a report of the facts concerning the person and place by whom and where the application is made, referred then to several clerks who examine the documents of the office with reference to prior applications, protests and the general locality, and then referred to the board for action; the judicial part of it consists in passing up, or in examining into and investigating the protests and in investigating and examining into complaints that may be made from time to time against persons holding licenses from the board.

Q. The present board has appointed all of the present subordinates, or if not all, how many of them? A. It has not appointed all of the present subordinates; but I think it has appointed about forty per cent.

Q. About forty per cent of the present subordinates? A. I mean about sixty per cent.

Q. How many inspectors have you? A. I can facilitate matters in that respect because I have a book here which will show every resignation, removal and appointment and retention.

Q. Let us get it. A. [To Mr. Bishop.] Mr. Bishop, have you got the book?

[Mr. Bishop produces book and hands to witness.]

The WITNESS.—I thought I would leave the book with you to examine if you desire.

Q. I thought you wanted to use it as a memorandum. A. If you desire to use it you may, or I can read from there just exactly what is entered there.

Q. If you will read from there and tell us exactly in each particular case, as you go through, upon whose recommendation the appointment was made? A. That is an impossibility for me to tell.

Q. You can tell so far as you are concerned on whose recommendation it was made, can't you? A. As far as I am concerned there are very few that I could tell you, as far as the recommendation is concerned.

Q. Then begin by telling us how many appointments you yourself have secured in the board since you have been there? A. There was one appointment that was made upon my own personal recommendation, upon my own especial recommendation; his name was Meyer Elsis, one of the inspectors.

Q. No others? A. No others.

Q. Before taking up those names in detail, in order to make that clearer, tell us what the method of appointment is? A. The method of appointment was that as a vacancy would occur the president of the board, Mr. Meakim would submit a name, if agreeable, and the man was handed the civil service paper.

Q. What do you mean by, "if agreeable" there? A. If agreeable to the members of the board.

Q. That particular name? A. Yes, sir.

Q. And if he was favorably considered by the board he was given a civil service paper? A. He was given a civil service paper; and when the paper received the indorsement of the requisite number of persons under the civil service regulations, it was returned to the board and forwarded to Mr. Angle at Albany.

Q. By whom — by the board? A. By the secretary of the board; it was forwarded to the president, and by him, I presume, to Mr. Angle.

Q. So that that paper, containing that particular name, was a sort of official recommendation to the civil service board of the particular person seeking an appointment? A. I should judge it was, yes, sir; the party would then receive his notification to attend the examination before the civil service board; if qualified, the board would be notified, and he would be notified, and upon that the appointment was made.

Q. Now, do you understand that anybody can come up for examination before the civil service board unless they are so recommended both by your board and the proper number of indorsers? A. I don't think the civil service board would give it a consideration as long as there was any probability that an application would be made in that way by the board of excise.

Q. Then, it virtually amounts to this, that you really designate the person whom, if he can pass the civil service examination, you want to employ? A. I think that would be the result; it is non-competitive.

Q. He then passes the civil service examination, which is non-competitive? A. Yes, sir.

Q. And he is then employed? A. And he is then employed.

Q. That virtually gives you complete control in the matter of appointments and complete responsibility for their appointees, doesn't it, assuming that they have passed? A. With very few exceptions that are designated as competitive by the civil service rules; we have some competitive ones.

Q. Which are the competitive ones? A. The engrossing clerk, and I think there are two or three other positions; just at present I am unable to tell which they are.

Q. Have you a competitive stenographer, for instance? A. The stenographer is competitive too.

Q. The secretaryship is not competitive? A. No.

Q. In those cases where the examinations are competitive, it is conducted, however, by the same examiners, is it not? A. Where it is competitive?

Q. Yes? A. I presume it is; I won't be positive.

Q. The operation and effect of the civil service law then, so far as concerns your board, is simply this, that a man who is absolutely unqualified, because he can not read or write for instance, could not get appointed? A. And character; sometimes the parties who vouch for him in the first instance, when requested by the board of examiners to forward individual letters, don't desire to go on record, and I have known several instances where the parties have failed to pass, not on account of not reading or writing, or not on account probably of not being otherwise well qualified, but because the manner in which they conducted themselves before the board of examiners did not commend them.

Q. The men who are suggested to you by Mr. Meakim, are, so far as you know, suggested to him in what manner? A. I should judge that they are suggested by the organization.



Q. What do you mean by the organization? A. Tammany Hall.

Q. So that if Tammany Hall as an organization, suggests a man for appointment in your department, that suggestion is made to the president of your department, as its president, and then, if it be agreeable to the other members, he is certified to the board of civil service examiners? A. Yes.

Q. And if the board of civil service examiners do not pass adversely upon the ground of character and upon the ground of qualification as shown by a non-competitive examination, he is appointed? A. He is appointed; yes, sir.

Q. The result of which is to virtually put the control of the patronage of the departments in the hands of the organization; isn't it? A. It is; it is the old theory, that to the victors belong the spoils, I suppose.

Q. And is it pretty thoroughly applied in the department? A. I should judge it would be.

Q. As one of the victors, do you regard it as in any sense a duty or obligation to the organization to help them divide the spoils? A. I don't regard it as a duty in that sense, but I regard it as a matter of gratitude that I would.

Q. Then, are we to understand that the organization of the service of the excise board is based upon a feeling of gratitude on the part of the commissioners to the organization which secured their places?

A. A feeling of gratitude to myself; all other matters being equal, the person having passed the necessary rules, everything in compliance with the necessary rules, I think that would be the inference that could be drawn, or should be drawn.

Q. Can you hold the organization in any way responsible for the malfeasance or misfeasance, carelessness or negligence of the subordinates which you appoint at its request? A. I should in the same way that I should hold any individual upon whose recommendation I appointed anyone.

Q. In what way would that be? A. That would be a moral obligation that he recommended somebody that was not what he ought to be.

Q. Do you regard the organization as having a sort of corporate existence for those purposes, so that you could hold it corporately responsible? A. No.

Q. Then, where does the moral obligation come in? A. The moral obligation comes in that there has been an abuse practised upon somebody in the organization that has recommended this man.

Q. If the organization were to recommend to you half a dozen men whom you appointed, and whom you subsequently found out were

entirely unworthy of their places, would you hold the organization responsible to the extent of refusing to recognize its recommendations in the future, as you would the recommendations of an individual who had committed the same blunder? A. If it came wholesale like that, I certainly should.

Q. Has not it come to the extent of five or six people already? A. My knowledge has not been called to them.

Q. You heard the testimony yesterday by Commissioner Fitzpatrick touching some of the reports by inspectors that were read yesterday? A. It was the first time that I had ever heard it.

Q. You heard it then? A. Yes, sir.

Q. Don't you think that somebody has been deceived so far as touches the qualifications of those inspectors for their work? A. I think that somebody has either been deceived or these parties have not given the testimony in the manner in which they ought to have given it.

Q. Do you mean the manner in which they ought to have given it, or the manner in which they had given it? A. The manner in which they ought to have given it; I heard one or two reports read there in which I knew that the parties knew better and did not intend to convey the idea that in the stenographer's minutes shown would be conveyed through what they had testified.

Q. Do you think that a man who does not know enough to know how to tell the exact facts on the stand under oath, is properly qualified to be an inspector as to the moral character and general reputation of others? A. I would take the character of the man intellectually into consideration at first.

Q. Have you taken that into consideration in the appointment of your inspectors? A. Certainly.

Q. And some of them are so intellectually weak that they don't know how to testify as they ought to have testified? A. Some of them are probably quite intellectual men of the class and kind that apply for inspectorships, and still when on the stand would be nervous; you must recollect that we have not had a single application from the 400 for the inspectors.

Q. Do you mean the organ-grinders? A. No; the others.

Q. There are two four hundreds, you know.

By Senator FASSETT:

Q. Mr. Fitzpatrick testified that five or six inspectors had been dismissed for extorting money; who recommended these? A. I think there were two that came recommended to us in the manner in which

I have indicated, through the president of the board; I think Mr. Quinn and Mr. Brady; I think these are the names; there were two, and the others were handed down to us as heirlooms from another age.

Q. There were only two that were recommended by Tammany Hall who were dismissed? A. I assume they were recommended by Tammany Hall; I won't even be positive as to that.

Q. That does not quite reach your maximum of half a dozen; so it has not become wholesale yet; is that it? A. I presume so; I know that I promptly dismissed them.

By Mr. IVINS:

Q. Would it be a fair statement to say that all of the appointees of the board have been virtually appointed on the recommendation of the organizations and not of individuals?

Mr. JOHNSON.—That is not a fair question; he says only sixty per cent are new appointees.

Mr. IVINS.—I say of his appointees.

Mr. JOHNSON.—You mean of the sixty per cent?

Mr. IVINS.—Yes, of his appointees.

The WITNESS.—A. Yes, sir; I think it would; I state again that I have never been consulted with reference to any of the appointments; when the vacancy occurred they came recommended from Mr. Meakim; of course, he can answer that better than I can.

Q. Since the organization seems to have the disposal of these places very largely, but at the same time is not an official public body in any sense, will you tell us what constitutes the organization, and how the organization certifies its desire, or will, in the premises? A. I am not a member of the organization.

Q. But how does it certify its will or desire? A. I can't tell; I am a member of the Tammany Society, and that is the nearest approach that I have to any committee or anything connected with the organization.

Q. Then, if you don't know what the organization is, and don't know how it certifies its desire, how do you know that these people are those desired by the organization? A. You mistake me; I told you that I supposed that they came recommended to Mr. Meakim through the organization; Mr. Meakim can testify to that better than I.

Q. Did you vote in favor of their appointment on that naked supposition and without going any further? A. I voted for them not strictly because I supposed they were Tammany Hall men; I should have voted for them if Mr. Meakim had suggested them.

Q. You hold yourself responsible as one of the commissioners for the operations of that board, don't you? A. Yes.

Q. For your own appointments? A. Yes, sir.

Q. And for any shortcoming or miscarriage as incident to the work of these appointees? A. That is held, and as a matter of law I am obliged to.

Q. If this were your private business, or if you were acting as the trustee for an estate, would you select your subordinates and assume responsibilities upon the same basis and on the same theory that you do in this department? A. In principle I think I would; I should consult largely the interests of my clients, and I suppose the principle would apply in that case.

Q. Have you ever made a personal investigation as to the sufficiency or insufficiency of the staff in point of numbers? A. Yes, sir.

Q. Just tell us what that investigation was, and tell us what the result of it was. A. In what respect do you mean?

Q. I said as to its sufficiency or insufficiency in point of numbers; that is, have you not sufficient numerical strength, or have you more men than you need? A. We would, during certain seasons of the year, have a considerable number more than we want; and then at other seasons of the year—say, for instance, from the middle of April or beginning of April until the first of July, we would hardly have enough to attend to all the duties that would be necessary; from the first of September then until close on to the first of February we would have about a sufficient number; there are about three or four months in the year in which we could dispense with one-half of the force that we have.

Q. Is there no way in which you could so organize your work that that expense could be saved the city and that one-half of the force could really be dispensed with? A. Not under the existing law.

Q. Now, I ask you if there is no way in which it could be done? A. There is no doubt but what it could.

Q. Tell us how you think it could be arranged? A. I think if all licenses were made to expire at certain times in the year—

By Senator FASSETT:

Q. That is if the dates of expiration were scattered through the different months? A. Through three months in the year.

Q. They now come about twice a year, don't they? A. Oh, they come every month.

By Ex-Judge BROWNE:

Q. Every day, isn't it? A. I say they come in large force every month, at present, because as a license is transferred from one party



to the other, he is obliged to take out a new license for an entire year.

By Mr. IVINS:

Q. I fail to see, under these circumstances, how, if it were all consolidated into one or two months, instead of running through the year, you would not intensify this mischief instead of curing it? A. The difficulty there would be too much work during the one month or two months; it would be almost impossible to get through the entire work of passing upon twelve or fifteen thousand applications during the three months.

Q. As a matter of fact, however, the volume of work now occurs during March and April and May, doesn't it? A. Hardly that now; it has become scattered more and more over the time.

Q. More perfectly distributed? A. The principle work is distributed, as I say, from the first of April until the middle of June; then there is a lull; then opens up another period of removals and transfers and sales, and one thing or another, and then you get a spurt during the month of October, and probably November; then comes a little light work, but work all the time from November until February.

Q. This work is not work of surveillance in any sense, is it; it is work of inspection as incident to the granting of a license in the first instance? A. Inspection.

Q. That is what you are now speaking of? A. Yes, sir.

Q. How many places could be comfortable but well inspected by an inspector in the course of a week, in your judgment? A. By any one inspector?

Q. By any one inspector?

Senator FASSETT.—A competent inspector.

By Mr. IVINS:

Q. What would be a fair amount of work for any competent inspector in the course of a week? A. I should judge that he could take about eighteen to twenty.

Q. Mr. Gale testified that he thought, as an inspector himself, and one familiar with the work, that it would be very easy for any competent inspector to inspect and report upon twenty-four in the course of a week? A. I say it might be twenty-four or twenty.

Q. Making an average of about three or four a day? A. An average of about three or four a day.

Q. That is assuming that the entire work upon each one of these sets of four is done on any one particular day, because he may have

to work upon one several days in succession? A. Certainly; I take it that way.

By Senator FASSETT:

Q. It would average about three or four a day? A. About.

By Mr. IVINS:

Q. How many inspectors have you? A. I think we have about sixty-five.

By Senator FASSETT:

Q. How many? A. About sixty-five.

By Mr. IVINS:

Q. On that basis then it is apparent that your force of inspectors, if the work could be differently organized in some way, is somewhat more than two or three times as large as is necessary? A. That is as I say, that it is during certain periods that an inspector is obliged to make six or eight a day.

Q. Then, for every very hard day's work that an inspector has during the busy period, he has a corresponding very small day's work at some other period, hasn't he? A. No, sir; not correspondingly small; he may have an average day's work; upon a rough thought I should say that there are three very busy months; then there are about six fairly busy months; then three that would run along here and there an inspection.

Q. Are you aware of the fact that with your staff of inspectors as compared with the volume of inspections made, each inspector does not inspect on the average one place a day? A. That may be.

Q. Are you aware of the fact that he scarcely inspects on an average more than one place in two days? A. That may be from your point of calculation.

By Senator FASSETT:

Q. As a matter of fact, I think the figures show that four a day for sixty-five inspectors would be about eighty-one thousands a year.

Mr. IVINS.— About sixty-one thousands?

The WITNESS.— But I presume that you are not aware that an inspector is obliged to go to one place five or six times a day at times, if he wants to do his work properly.

Mr. IVINS.— We understood that; but in the course of a weeks work, provided he is not compelled to report upon a particular day, and he is working in the same precinct, there is nothing to prevent his moving about from place to place and doing a good deal of that work simultaneously.

By Mr. LEVENTRITT:

Q. Do not the inspectors serve subpoenas and do clerical work in the office? A. They do that; yes.

Q. So their whole time is not devoted to inspection? A. I didn't state that.

Mr. LEVENTRITT.—That is what Mr. Ivins wants to know.

By Mr. IVINS:

Q. What clerical work do the inspectors have to do in the office? A. They have got to make out their reports.

Q. That is part of the inspection, isn't it? A. Certainly.

Q. You don't call that clerical work, do you? A. You can't call it an inspection to have a party go and put up the various questions, make his notes, and then if he feels satisfied to write up his report afterwards in the manner he does; that is hardly fair to call that an inspection.

Q. All I want is not to have any confusion here in regard to the work of the inspectors and the work of the clerks; do they do any clerical work other than the clerical work incident to their own department? A. No; none at all; if a complaint is made against a party —

By Ex-Judge BROWN:

Q. Are not the inspectors detailed in the office in the administration of the department other than the regular clerks? A. Hardly that.

By Mr. LEVENTRITT:

Q. Do not those inspectors keep the precinct books and the record books? A. They are all incident, of course, to the office.

Ex-Judge BROWN.—That is not incident to their report.

By Mr. IVINS:

Q. Mr. Leventritt's question is entirely pertinent; I meant incident to their report, not incident to the records of the office? A. They are obliged to keep books in order to keep themselves properly posted within their precincts.

Q. What books do the inspectors keep, and which inspectors keep the books? A. They keep the books connected with their precincts, so that they can ascertain any information they desire.

Q. What do you call those books; what are they; are they the so-called precinct books that we have had in evidence here? A. No; not those precinct books.

Q. They are not those precinct books? A. No.



Q. What books are they? A. They are books that they keep for their own information.

Q. Are they the records of the department? A. They become records of the department, of course.

Q. What are they known as in the department? A. As local precinct books, I should judge.

Q. They are known as local precinct books? A. Yes, sir.

Mr. IVINS.—[To Mr. Bishop.] Mr. Bishop, have you got a messenger that you can send for some of those local precinct books and let us see what they are?

Q. Each inspector, you say, keeps a local precinct book? A. That is his duty to do so, if he wants to keep in form with reference to the general condition of his precinct.

Q. Do you know what he enters in that book? A. No, sir; I do not.

Q. The inspectors whom we have called, a half a dozen of them, have sworn that it does not take more than half an hour to make out a report in any particular case, that is the actual clerical work, and the investigation of the report; but the committee has shown that a quick man can do it much more quickly than that, because there is very little writing on that paper; do you think that half an hour is sufficient time to enable a man to make out his report?

Senator FASSETT.—Having done all the preliminary work before?

Mr. IVINS.—Having made his examination before?

The WITNESS.—I should judge it would be.

Q. One of the inspectors has testified that he was able to make out his report and investigate all the documents in the office bearing upon the question of the reports, such as the newspaper files, the notices of arrests and precinct books and everything of that kind in half an hour? A. He might have been able to do it; he might have run up a line of figures in a second.

Q. Then it is fair to say that an inspector who wrote out four reports a day would not take over two hours in that work isn't it? A. An inspector of that kind ought to take about two hours or three hours.

Q. How much of his time does it take to make the daily entries in this other book of which you speak? A. I should judge it would take him probably fifteen or twenty minutes, or probably half an hour, depending on the number of inspections he would make.

Q. As a matter of fact it is practically nothing more than the entry of the name of the party applicant and the inspection? A. I don't know what they are; I have paid no attention to it; I understand they keep them for their own convenience.

Q. Do you feel as the result of your services to date in that board that there has been a marked improvement in the work of the board as compared with the last board? A. Yes, sir.

Q. Do you think there has been a marked improvement in the work of the board as compared with the work of the board when Mr. John R. Boorhis, for instance, was commissioner of excise? A. I paid no attention to the board at that time; in fact I will say that I didn't pay a great deal of attention to the workings of the last board; but if you ask me the reason why I believe there is a marked improvement I will tell you.

Q. Well, I will ask you that in a minute; I shall be glad to ask and it is fair that you should answer; do you know with how many inspectors the work of the board was done some ten or twelve years ago? A. No, sir; I do not; I know that it was done with considerably less than there are now; that I have heard.

Q. Do you know, as matter of fact, that there are fewer licenses now than there were then, ten or twelve years ago? A. No, sir; that is news to me.

Q. There are fewer licenses now than there were under your immediate predecessors, are there not? A. Yes, sir.

Mr. LEVENTRITT.—The number of saloons is less, but the total number I think is about the same.

Q. In the aggregate, is the number of licenses smaller than it was under your predecessor, or does that occur to saloon licenses only? A. The saloon licenses are smaller.

Q. The aggregate is about the same? A. Drinking places, taking the saloons, ale, wine and beer, or ale and beer.

Q. Why is it that the saloon licenses are smaller; is it because there has been a new differentiation or a new classification? A. The resolution we formed at the beginning of our term was to limit the number of licenses to the number that were in existence at the time we went into office; and that, I hold, is one of the improvements in the city, and if you desire any explanation I can give it to you.

By Senator FASSETT:

Q. Before you leave that subject of the distribution of the expirations of licenses; I don't think you left that very clear; If I understand you, it would be this, that if you could distribute the expirations and renewals of licenses more evenly through the year, so that each day would almost approximate the average, that is, it would be about thirty or forty a day, that would result in the minimum of employes, would it not? A. I think it would.

Q. The maximum of distribution would result in the minimum of employes? A. I think so.

By Senator McNAUGHTON:

Q. Can that be regulated?

Senator FASSETT.—That will be my next question.

A. I really have not given the matter any attention; I think it could be regulated in a proper way; I could work it out.

By Senator FASSETT:

Q. It could be regulated to a very great extent, if not entirely? A. Yes, sir.

Q. And if it could be regulated so there would not be more than fifty applications in any one day, according to your own notions, twelve or fifteen inspectors could do the work? A. It would become largely a question of utility at that, as to whether it would be better, whether the theory would be the best to distribute them in the manner in which you would indicate, or to lump them so that all licenses should expire within a period of about two months.

By Senator STEWART:

Q. Would that be possible to transact the business and have it done in a few months—could you properly make an examination of 14,000 applications in a few months? A. Well, hardly.

By Senator McNAUGHTON:

Q. Is not it the fact that fewer licenses were granted under your term of office in view of the fact that there was a better inspection, a more thorough inspection? A. Well, I can't say that, because the mode and manner of inspection has been pretty much the same under the two regimes, as I understand it; but it has been that we have kept the number of saloon licenses within a certain limit.

By Mr. LEVENTRITT:

Q. I want to ask you a question which perhaps will assist the committee; does not a great deal of this work in April arise by reason of removals, parties moving, as they do here in the city, on the first of May, moving from one saloon to another; does not that create a great deal of work in the transfer of licenses? A. That creates a great deal of work during a period of the year.

Q. And if you can't obviate the number of removals at that time, you can't obviate the difficulty regarding the labor at that particular season of the year? A. You could obviate it by applying the same rule to removals that applies to transfers; you could obviate that.

Q. And allow a licensee to remove from one place to another and take his license with him, and have it apply to the subsequent place as it did to the former place? A. Yes.

Q. Without any action on the part of the commissioners? A. Yes; without any action on the part of the commissioners.

By Mr. IVINS:

Q. What would the result be if the law was such that the place were licensed instead of the individual? A. That would be an improvement in my judgment; I think it would operate well; my own individual judgment has been that the place instead of the person should be licensed.

Q. If the place were licensed instead of the person every owner of such a place would have a direct motive, would he not, to see that the law was enforced, in order that he might not lose the value accruing, or the possibility of renting that as a liquor store? A. I think the landlord should have a right to license his place under the rules or under the law as it exists; I think that if an abuse of the law were practiced there that that license should be revoked and not relicensed again for a period of two or three or five years.

Q. Would that not, in your opinion, be virtually making the landlord in every case a sort of assistant to the board of excise to see that the law is enforced? A. Of course, as a matter of protection to his property; they say that property of that kind is worth more, as a general thing, than other property in the immediate vicinity, and if that were the case, as a matter of self protection, I think he would be a sort of private policeman to protect his own rights, and he would see that proper persons were put there.

Q. Is your view as to the desirability of licensing a place instead of a person due in any measure to your experience of the almost utter impossibility of making a proper examination as to the character and general reputation of applicants? A. Yes, sir; it is based upon that very largely.

Q. We got off for a minute from the point of the inspectors; it is a fact that because of the irregular distributions of the work your inspectors are not busy during some parts of the year, is it not? A. I don't understand what you mean—oh, yes, sir; I understand you now; yes, sir; that is the fact.

Q. And it is a fact that they have pretty easy times during that part of the year, or in other words that the services of some of them might readily be dispensed with, isn't it? A. Certainly.



Q. Unless they are occupied in other classes of work? A. Yes, sir.

Q. For instance, if their time were to be occupied in the work of surveillance, or general supervision, then they would have plenty to do, wouldn't they? A. Yes, sir.

Q. And there is no reason why, during large parts of the year, they should not do that work, is there, unless that it is not within the duty of the board to have it done? A. That is the truth.

Q. Now, do you know of any reason why an arrangement could not be made by the board of estimate and apportionment which would provide for the appointment of a number of special inspectors who should assist the regular inspectors during the busy part of the year, and in that way make the burden upon the city treasury much smaller, and in that connection I call your attention to this fact, that whereas this department cost only from \$40,000 to \$50,000 some ten years ago, it is now costing, I think, \$125,000; isn't it? A. About \$114,000, I think.

By Senator McNAUGHTON:

Q. Right here, I would like to ask, what is the reason of the rule of the board of excise which reads as follows: "The duties of an inspector of excise and confined to making such sufficient report to the board of excise as are required by the rules of the board;" why confine them to that? A. It was a rule that was adopted in accordance with what had been handed down to us by our predecessors, and I will state right here — not desiring to state matters out of school, and very much against my protest —

By Mr. IVINS:

Q. It is the existing rule of your board? A. Yes.

Q. You have not changed it? A. No; it has not been changed; but it is not my fault.

Q. Have you ever considered the desirability or feasibility or practicability of changing it? A. Yes, sir; I have.

Q. Don't you think it would be a good idea? A. I had a committee on rules appointed the very first thing that I did when I went into the board; I hadn't been there three days before I did that.

By Senator FASSETT:

Q. You were out-voted? A. Yes, sir, I was out-voted; I had never been a member of the excise board and hadn't given much attention to it except such as I obtained through legislation and one thing and another, and the rules were never changed; they were supposed to be good enough; they were good enough for the old board and worked

along; they had received a great many encomiums, and so they supposed it would be well enough to go along with them.

Q. A kind of Chinese method? A. Well, that may be; of course, I am a member of the board and I stand by the rules as they were adopted.

Mr. IVINS [to the stenographer].—Will you read my question to the witness?

The WITNESS.—I think I recollect your question.

Mr. IVINS.—I think he better read it.

[Question repeated: "Now, do you know of any reason why an arrangement could not be made by the board of estimate and apportionment which would provide for the appointment of a number of special inspectors who should assist the regular inspectors during the busy part of the year, and in that way make the burden upon the city treasury much smaller, and in that connection, I call your attention to this fact, that whereas this department cost only from \$40,000 to \$50,000 some ten years ago it is now costing \$125,000?"] A. To appoint inspectors of any kind they would be permanent inspectors; you might term them assistants or adjuncts or whatever you please; under the ruling of the Court of Appeals recently, in the case of Gregory against the board of excise, I think, reported in the 113 of New York—do you recollect that case, Mr. Leventritt?]

Mr. LEVENTRITT.—That is correct.

The WITNESS.—It was in the 113 New York, I think. It was ruled there that the board of excise had no power to suspend. They could remove, but they could not suspend, and the consequence was that there was a judgment given against the city for something like \$13,000.

By Mr. IVINS:

Q. Is it your belief that the board ought to have the right to suspend; I don't mean under the present law? A. Yes, sir; decidedly; if it were the law; I should have that belief; I should not allow a man while he was under my charge to do any duty nor to draw any salary, of course.

Q. If you had the right by law to suspend, you could regulate your work so as to have only sufficient men on the pay-rolls during the dull season to do that work? A. Yes, sir.

Q. And you would have an ample force during the busy season to do that work? A. If we had the right to appoint temporary inspectors in the manner in which you suggest, I should be a decided advocate of it, and think that it would operate advantageously, as well as economically.

By Senator FASSETT:

Q. There is no trouble in getting these auxiliary men at any time, is there? A. I don't think so.

Q. There are always applicants enough? A. There are always applicants enough to do that work; it is a legal difficulty that prevents.

Mr. IVINS.—I will read here at Mr. Leventritt's suggestion, the last paragraph in the opinion of the case in the Court of Appeals. "We think the commissioners had no power to suspend the plaintiff and that the plaintiff's attendance at the office of the board and his continuous offers to perform the duties of the position to which he had been appointed were sufficient tenders on his part to warrant the conclusion of the trial judge in directing a verdict." You understand by that, that that applies equally well to suspensions which you would feel justified in making because there was no work to be done.

The WITNESS.—Yes, sir.

Q. You feel that the decision applies equally to that? A. Yes, sir; I think so.

By Senator FASSETT:

Q. Was this a case where a man had been discharged of non-performance? A. No, he was simply suspended.

By Mr. IVINS:

Q. What was he suspended for in that case? A. I don't recollect what he was suspended for.

By Ex-Judge BROWN:

Q. He was suspended under the previous administration, wasn't he? A. Long before the previous administration.

Q. For over four years? A. It was eleven years or thirteen years ago.

Mr. IVINS.—I don't think that is material.

By Senator FASSETT:

Q. There is no question as to the power of this board to discharge inspectors absolutely, is there? A. No, sir; I don't think there is.

By Mr. IVINS:

Q. Could you discharge an inspector, as you understand the law, simply because you had no work to do, if he himself were entirely without fault?

Senator FASSETT.—That is, can you discharge without cause?

The WITNESS.—I should hardly think that we could; we might abolish his place.



Q. The chairman used the words "without cause," and that you think would be cause, so far as the board was concerned, if you had no work to do, don't you? A. If the courts would think so, we would.

Q. But that wouldn't be in your judgment personal cause so far as concerns the individual? A. No, sir.

Q. Therefore, if the individual were not in the wrong in any regard and no complaint laid against him, all could be sustained, no matter what the work of your board was, you would have to go on paying him; is that the result of the present law?

Ex-Judge BROWN.—That is not the result.

The WITNESS.—I don't think so.

By Mr. LEVENTRITT:

Q. Are not these inspectors employed by the board at their pleasure, to hold at the pleasure of the board—is not that the extent of their employment? A. Yes, sir; I think that is the extent of their employment; I think that is the manner in which they are appointed.

By Mr. IVINS:

Q. Then what is to prevent your discharging these people, or a number of them when you have no work for them, and the appropriations having been made in advance, and the fund being there and re-employing them when the time comes? A. It is a question of discrimination between the inspectors as to which should be employed and which should be removed, because a removal is a stigma.

Q. Would a removal under these circumstances be a stigma if it were understood that removals were made on that basis? A. But these things are not confined to people who are supposed to know them; they go abroad.

Q. If a change were made in the law, would that have any effect as bearing on the feeling that a man had been stigmatized because he had been removed? A. If a change were made in the law so that the board had the power to suspend during a given period—

Q. Has not the board virtually got that in view of what we have just developed here, that is, that these people are employed during your pleasure; it is your pleasure to say, "we have no more work for you," and it is your pleasure to take them on again when you have work? A. It has a tendency to work just as I say, that it is a dismissal, and that we couldn't very well discriminate between whom to discharge and whom to retain.

By Mr. JOHNSON:

Q. Wouldn't it demoralize the force? A. I think to a very great extent it might.

By Senator FASSETT:

Q. Wouldn't it rather, on the contrary, promote rivalry as to who should deserve being retained?

By Ex-Judge BROWN:

Q. And wouldn't they have to pass another civil service examination before reappointment, if they were once discharged? A. They would have to pass another civil service examination.

Q. And it would retard the progress of the administration of the office? A. Yes, sir.

By Senator FASSETT:

Q. Under the evidence of the witness, I don't think that would be any hindrance? A. It might; we have had cases in which it has taken, from the time when the nomination went before the civil service board until the affirmance came to our board, a period of six or eight weeks.

By Mr. IVINS:

Q. Do you think it would be any inconvenience or matter of displeasure to the organization if these dismissals were made from time to time? A. I don't think that it would be if the question of economy were shown to the organization.

By Senator McNAUGHTON:

Q. Where would the greater stigma arise, for a board of excise to employ and pay men whose services they did not require, or to say frankly to a man, we have not anything for you to do, and therefore you must go — would the stigma be greater on him than on the board of excise for retaining him? A. I think it would be greater on the man.

Q. On the man? A. Yes, sir; that is my judgment.

By Mr. IVINS:

Q. I think we have got to a point now where we can close this particular feature; would it not be possible for the board of excise to go before a board of estimate and apportionment and say, "We can get along with the regular staff about half the size of that which we have; we ask appropriations for that; we can get along with a temporary staff of a certain number and we ask appropriations for that," and then inasmuch as these men are employed at the pleasure of the board, when your appropriations for the temporary inspectors had been expended, and when the work had been done and their term as a term should end, and there would

be no stigma on anyone? A. Probably that might be a proper solution, if it would be a legal one.

Q. Do you know of any reason why that can't be done to-day by the board of estimate and apportionment and the excise commissioners? A. I don't know of any reason unless as I say there is a legal objection, and I have in my mind that there would be a very strong legal objection in the way of doing that.

Q. What is that? A. That is if they were employed for a year they would be —

Q. No; not employed for a year; employed at the pleasure of the board? A. I mean employed until they were discharged.

Q. No; not discharged, but employed at the pleasure of the board until that particular work was accomplished.

By Senator FASSETT:

Q. The board employing them to do definite work and when the work was done that discharging them of itself? A. I always understood that the pleasure of the board meant in removal.

By Mr. IVINS:

Q. Don't you know that exactly that thing is done now in the comptroller's office in regard to the employment of extra clerks in the tax department? A. I don't, and if I did I don't think it would be any criterion for me in either of these places.

Q. Do you think there is any difference in the law as affects the employment of men to do work for a short service in the finance department, and that which prevails with regard to the excise department? A. In the finance department, there are persons, as I understand it, if the same rule prevails to-day as did a year ago, or two years ago, they take parties as laborers, who are not subjected to civil service examination, who are employed from day to day, called skilled laborers; employed during this busy season in making up and writing up the books and then discharged as laborers are; I don't know; it may be a very pleasant way; it may be a very economical way of doing things, but it is not complying with the law.

Q. It would assist this committee very much if you have any evidence of that kind, because in that case it is a direct evasion of the law; if you have any evidence of that kind, we would like to have it? A. I make no charges against anybody; I say I don't know; they may have a different law to-day from what they had a few years ago.

Q. You recollect that you have said under oath that this thing is being done in the tax department? A. No, sir; I beg pardon; I said

if the same thing was being done to-day and the same rules that existed heretofore.

Q. What do you mean by heretofore?

Senator FASSETT.—When before?

A. I think a year or two years; I am not positive, but I think a year ago.

Mr. JOHNSON.—Look out; you may get back into Mr. Ivins' time.

Senator FASSETT.—That would make no difference.

The WITNESS.—No, sir; he was not comptroller at the time; he was city chamberlain.

By Mr. IVINS:

Q. The present comptroller was also comptroller two years ago?

A. Yes, sir; two years ago, I think, he was.

Q. I shall want to ask you some questions about that when we come to the finance department? A. I only hear what is common rumor; I don't know anything else.

By Mr. JOHNSON:

Q. You have no absolute knowledge about it? A. I have no absolute knowledge about it; I don't say this to prefer charges against anybody, or to cast any reflection, or because I have any positive knowledge of my own from any investigation; why I say this was because it is current and common rumor that that mode of transacting that kind of business existed.

Mr. IVINS.—These were evasions of the law.

Senator FASSETT.—Which resulted in economy.

Mr. IVINS.—But that was not the thing of which I was speaking. The thing of which I was speaking, that appropriations were made by the board of estimate and apportionment for the appointment by the comptroller during the busy season of the year of a special class of clerks to do a special work, and the work of them, when accomplished, results in the laying off of these men?

The WITNESS.—There may be special legislation in that respect; I don't know.

Q. There is not special legislation for them as far as I know; but do you know of any limitations on the power of the board of estimate and apportionment which would prevent their doing that sort of thing if your board asked for it? A. I don't think I know of anything that would interfere with it.

Q. Would you, as a commissioner of the board, recommend some such course to the board of estimate and apportionment for the pur-



pose of decreasing the expenses of your department, if legal? A. If we had the legal power I should certainly do so.

Q. Then there is nothing preventing your trying to find out from the commissioners whether they have the power? A. Nothing at all, and I should certainly advocate it.

MR. BISHOP.—This is the book you sent for, Mr. Ivins. [Producing book.]

THE WITNESS.—This is only one of thirty-four.

MR. IVINS.—This is one of the local precinct books; it is numbered 14; the entries are as follows—page 68 I open to—it is headed “First Avenue;” the entry is “52, near Northeast East Third street, Louis Jacobs, license No. 459, class 3, expiration May 13, 1890, application No. 731;” there is a column for remarks; in a few of these pages there is a single line filled with remarks, but in most of them there are no remarks at all; does that appear to be the extent of the entry which is made by the inspector; and if he made four inspections a day he would make four such entries, would he not?

THE WITNESS.—About that; yes, sir.

Q. And that would take him at the outside fifteen minutes? A. It ought to take him about fifteen minutes.

Q. And that is what you mean by the clerical work done in the office other than his filing out of the blanks on the inspection? A. Of course, I don’t know what assignments may be made to the inspector by the chief inspector.

By Senator FASSETT:

Q. You would know what possible assignments might be made in the way of clerical duties in the office? A. Hardly that.

By Mr. LEVENTRITT:

Q. Are there not eleven or twelve inspectors assigned in the office to do clerical work there principally—is not that the principal part of their duty, out of the number that has been stated here to be the aggregate of the inspectors? A. Not by the commissioners; they may be assigned by the chief to do that sort of work.

By Mr. IVINS:

Q. Not by the commissioners? A. Not by the commissioners.

By Mr. LEVENTRITT:

Q. Do you know whether that sort of work is done there? A. It may be; I won’t be positive.

By Mr. IVINS:

Q. What right has the chief clerk to assign inspectors to do clerical work? A. That is a matter, I suppose, incident to the office of chief inspector and to the office of chief clerk of the department.

Q. Does the same rule prevail under the civil service schedules with regard to the appointment of clerks of the department and with regard to the appointment of inspectors? A. I doubt whether it does; I won't be positive.

Q. An applicant for a clerkship is not subjected to the same examination as an applicant for an inspectorship? A. I don't think so.

By Senator FASSETT:

Q. That is a competitive examination, is it? A. I think some of the clerkships are competitive also.

By Mr. IVINS:

Q. So if a man knew he was going to be employed to do clerical duty he would not be subjected to the clerical examination which is applied to a man who is alleged to be an inspector? A. That is my impression; I won't be positive; but that is my impression.

Q. If you found out that the chief clerk was assigning inspectors to do the work of clerks, do you think it is a matter that demands the attention of the commissioners? A. I think I would transgress my duties if I permitted it.

Q. Do you think that what has been said here by the other inspectors in the testimony that has been taken, and what is now brought out, is sufficient to put you on your notice with regard to that matter? A. I don't know what it is.

Q. That is the employment of inspectors to do clerical work? A. If they were employed to do work in the clerical department, certainly it is not only sufficient to put me on my guard, but I shall see that it is attended to.

Q. You heard the testimony of Commissioner Fitzpatrick yesterday with the general character and value of the inspections; in the first, do you agree with him as to the almost entirely formal character of these inspections? A. No, sir; I do not; if he stated that, I didn't so understand him, though.

Q. He stated that in answer to a question of the chairman? A. I didn't so understand him.

Mr. JOHNSON.—Nor I.

By Mr. IVINS:

This inspection, commissioner, shows the name of the applicant, the class of license for which he has applied, the location of his place, the



date of the inspector's visit, the firm style, the name of the saloon, that is all formal, anyhow; is it not? A. Yes, sir.

Q. Where it is located, which is also formal; then as to whether there are other rooms separate and apart from the barroom, such as restaurants, café or sleeping-rooms, that is all virtually formal; is it not? A. Yes, sir.

Q. Because it is subject to mere physical investigation? A. Yes, sir.

Mr. JOHNSON.—You can not call that formal, Mr. Ivins; he has got to make an investigation.

Senator FASSETT.—It does not require any exercise of discretion.

Mr. JOHNSON.—Yes; but it is not formal; it has to be done.

Q. That involves a personal investigation, but it involves no exercise of judgment in any sense? A. No, sir.

Q. Does not involve a recommendation on the part of the inspector one way or the other, either for or against the proprietor of granting a license? A. It requires a certain amount of actual physical work.

Q. "I have carefully examined said premises and buildings, and find that there is no indication that the same are used or are to be used for gambling or immoral purpose, and no part of said building is a resort for immoral persons;" the first part of that is of the same general character as the other question and answer; is it not? A. Yes, sir.

Q. Involves a mere physical investigation; now, for the first time, it appears that we come to something that a little bit transcends a physical investigation; that is that "no part of said building is a resort for immoral persons;" what instructions have the inspectors as to the manner in which they shall conduct their investigation for the purpose of seeing whether any part of a building is a resort for immoral persons? A. To make investigations in the neighborhood.

Q. Do you think that you could, by making an investigation in the neighborhood, find out whether a place was used for immoral purposes? A. Well, you would be put on your guard sufficiently to ask for a report from the police as to what the character of the place is.

Q. There is nothing that compels you to ask for a report from the police? A. Nothing at all.

Q. There is nothing that absolves you from making that investigation yourself, is there? A. Nothing at all.

Q. Did you vote in favor of licensing the Sixth Avenue Hotel? A. Yes, sir.

Q. Were the investigations made there so complete as to be absolutely satisfactory in your mind to the effect that that is not used for immoral purposes? A. Yes, sir.

Q. How were those investigations made? A. Those investigations were made by an inspector reporting that the place had existed

there during a long number of years, and I thing it was Mr. Meakim who requested —

Q It is too bad Mr. Meakim is not here? A. Well, it would not make any difference.

Mr. BISHOP.— I have just received a letter from Mr. Meakim, stating that he would be on duty to-morrow. Will you kindly hand that to the judge.

The WITNESS.— Who made that request to ask for a police report on the Sixth Avenue Hotel?

Mr. BISHOP.— I believe two of the commissioners.

The WITNESS.— Were there two? Well, I certainly did not. I was going on to state that the report came from the captain of the precinct. Captain Killillea reported it, and I met Captain Killillea as it happened, and he spoke to me about it, that he had made a report on that place, said it was a first-class restaurant, had been there for years. I recollect that Commissioner Fitzpatrick and I were there at the meeting one morning, and several very estimable gentlemen came and advocated it.

Q. Will you please name the estimable gentlemen that advocated it? A. I don't know that I care about it.

Q. Well, did their advocacy have any effect on your judgment as an excise commissioner in granting the license? A. I should have granted it anyway.

Q. You would have granted it any way? A. Yes, sir.

Q. Then there was no necessity for your having to refer to their advocacy at all? A. I say the police captain's report was quite sufficient for me, and I certainly should not have regarded it either one way or the other. If the police captain's report had been adverse, the application would have been refused, and their advocacy would not have amounted to a snap.

Q. Well, we will refer to that later; the present purpose here is confined to this form of inspector's report.

Mr. JOHNSON.— You went to the Sixth Avenue Hotel yourself.

Mr. IVINS — I took that as an illustration, and we will take it up later, but it is impossible that that should have been licensed, is it not, unless the inspector had reported that no part of the building had been used as a resort for immoral purposes? A. It is almost impossible that that would have been licensed if he had reported against the place.

Q. What instructions have your inspectors received, either formally or informally in regard to the method to be pursued in conducting such an investigation? A. To put themselves in possession in every

reasonable manner of every knowledge they could obtain in reference to the place.

Q. Take the Sixth Avenue Hotel again for a minute, did you prior to granting that license have your attention called in any way to any matter whatever that would have put you on your guard as against licensing the place? A. No; in no way, shape or form.

Q. Then there was nothing whatever to put you on your guard to such an extent to have resulted in your asking how that report came to be made, and what the actual process of investigation was? A. No, sir.

Q. It went through as in any other case, where the answer came in in an informal manner? A. Yes, sir.

By Senator FASSETT:

Q. No protest had been filed with the board? A. No, sir; our attention had not been called to the place; I had passed there quite frequently, and had never seen anything that would in any way, shape or form indicate that the place should not be licensed.

Q. These things were subsequently developed? A. Yes, sir; I had gone into Burns' place, which was immediately adjacent to the Sixth Avenue Hotel, probably at 12, 1 and 2 o'clock in the morning, and never noticed anything there that would indicate that it was a place of immoral character.

By Mr. BROWN:

Q. Burns' is an oyster saloon? A. Burns' is an oyster saloon immediately adjacent to this place, probably one of the most respectable places in the city.

Mr. BISHOP.—Chairman Clark Bell sent the protest to the police board by mistake.

The WITNESS.—It never came to the board of excise. We had no indication of anything of the kind.

By Mr. IVINS:

Q. "The balance of the place is used for a concert garden?" A. No, sir.

Q. I am talking about this inspector's report; that simply involves a physical investigation.

The WITNESS [Referring to letter produced by Mr. Bishop.] — Mr. Meakim says he will be on hand to-morrow.

Q. "No part of the building is used as a skating rink;" that is a mere physical examination? A. Yes, sir.

Q. "No waiter girls are employed?" A. That is the same thing.

Q. "These premises are not known as being disorderly;" now that is a variation again; what do you suppose to be meant by "not supposed to be disorderly;" not known to the inspector or to the community? A. Not known by general reputation in the neighborhood as being a disorderly place.

Q. So that involves the exercise of some little investigation? A. Yes, sir.

Q. "There is no license in this building;" that is also a mere record of the office? A. It is a record of the office.

Q. "These premises have not been licensed since?" A. That is a record of the office too.

Q. "There are no signs on the premises advertising the sale of liquor;" that involves a mere physical examination? A. Yes, sir.

Q. As to the number of licensed places in the neighborhood, that is also a physical examination? A. Yes, sir; or that could even be obtained from the record; we can ascertain from the maps we have in our office, just exactly.

Q. As to churches, schools, hospitals and asylums, they say, "see diagram," and that is shown on the maps in the office as well as going to the place? A. The better way is to have the diagram, because that will obviate the difficulty; the inspectors should make an investigation anyway, because some new place may have sprung up.

Q. "The character of the surrounding neighborhood is business houses;" that is a mere physical matter? A. Yes, sir.

Q. The name of the former licensee appears on the records? A. Yes, sir.

Q. "Former licensee's bartender was arrested for violation of the excise laws;" that appears on the records? A. That appears on the records; sometimes it is necessary to go to the police.

Q. "Former licensee was not convicted;" that appears on the records? A. Yes, sir; it ought to at all events.

Q. Whether an application has or has not been made, whether an application has been rejected, is all on the record? A. Yes, sir.

Q. "Upon diligent inquiry I find the general reputation and moral character of the applicant to be good." A. Yes, sir.

Q. "Applicant is a citizen;" how is that determined? A. That would be determined by his application.

Q. His affidavit on application, but that is a record? A. Yes, sir.

Q. "The applicant is not now licensed;" that is a record? A. Yes, sir.

Q. "The applicant was formerly licensed;" that is in the record; "applicant's license was" or "was not revoked;" and "was restored,"



or "not restored," "convicted," or "not convicted," for violation of the excise law; there has "or has not been a discharge filed, or there has or has not been a bill of sale filed; the license has or has not been surrendered; grade of internal revenue and date of issue," are all matters of record? A. Yes, sir.

Q. Then it appears that there is nothing in this inspection except a certain physical inspection of the place and its neighborhood, certain matters of record which are filled in quite clerically by the inspector, and three items which really involve some exercise of judgment on the part of the inspector himself; that is, "as to any part of the building being used for immoral purposes, whether the premises are known to be disorderly, and the moral character and general reputation of the applicant?" A. That is quite correct.

Q. Now, as to those things, are they not really the gist of the whole inspection? A. I agree with you entirely; yes, sir; and I think they ought to be gone into fully; I think a question of this kind should be put: "State the character of the man."

By Senator FASSETT:

Q. You think a new question ought to be put? A. While the thing occurs to me—"your sources of information, if you think his character is good," or, without putting that in, "state what you ascertain to be his character, your sources of information, how obtained and where obtained."

By Mr. IVINS:

Q. Failure to answer any of these questions except those three could under no circumstances involve your board in wrong-doing or maladministration at all, could it? A. I don't think it could.

Q. But you might be very seriously involved by the failure to answer these three, might you not? A. Beyond any doubt.

Q. Then that is really the gist of your administration, is it not? A. I take it so; yes, sir.

Q. It looks so; and that in its turn falls on the shoulders of the inspectors, does it not? A. Yes, sir.

Q. And those inspectors are appointed on the application of the organization? A. No, sir; I don't say that entirely; I stated that I understood that the president might have taken that into consideration and probably did when he recommended them.

Q. Do you as a commissioner feel satisfied that so far as those essential matters are concerned the inspections as they are made to-day really efficiently and thoroughly and satisfactorily made, or do



you agree with Commissioner Fitzpatrick in regard to the most important of them, that it is almost entirely a matter of form? A. I don't think it should be a matter of form.

Q. No; as it actually is, without casting any blame on anyone except the system as it is? A. I think that the mode of inspection might be made more critical and more satisfactory both to the board of excise and the people generally.

Q. Do you think it might be made more satisfactory and more critical if you had a better grade of ability on the part of the inspectors, than you have got to-day? A. I think it might be made more satisfactorily and more critically with the grade of inspectors that we have got, if the rules were changed so as to allow more stress with reference to the character and everything that I have indicated in those questions.

Q. You said a little while ago that none of the 400 had applied for appointment as inspectors; suppose, that while we do not take the richest of the rich, neither do we take the poorest of the poor, but that a salary was to be made which was sufficient to really get first rate ability, and to induce men of real standing in the community to take the places; would that improve the administration? A. I do not know whether it would or not.

Q. You pay inspectors 1,200 to-day; until two or three years ago you paid them 900, did you not? A. The salary was 1,200 when we got there.

Q. When you got there, yes; but under the previous board the salary had been 900? A. I understood the salary had been raised; I did not know whether it was the previous board or the board previous to that; when was it, Mr. Gale?

Mr. GALE.—It was raised in December, 1886.

The WITNESS.—That was the board before the last.

Q. Do you think that by increasing the salaries of those officers, and offering inducements for securing a better class of judgment and ability, that the service might be improved? A. It might.

Q. You heard the testimony of these inspectors as read to Commissioner Fitzpatrick, yesterday, didn't you? A. I heard part of it; yes, sir.

Q. Do you think that is indicative of a very high grade of ability? A. No, sir; I do not state that they were very able men.

Q. Now, we will recur to the Sixth Avenue Hotel, will you please tell us right in this connection, all that has been done in reference to that hotel? A. We granted the license, and I think about a month after that, a protest came in which we regarded as a complaint by the

neighbors, of an organization called the "Forty-seventh Street Association," headed by Mr. Clark Bell, an attorney of this city; he presented that; we set the matter down, summoned Griffith, the owner of the Sixth Avenue Hotel, and gave him the subpoenas, and went regularly to the trial of the case; there were adjournments from time to time, by consent, on account of disadvantages on both sides, which were not objected to and no fault found.

By Mr. JOHNSON:

Q. Were there counsel on both sides? A. Yes, sir; Mr. Lindsey was counsel on one side, and Mr. Bell, himself, the counsel on the other.

By Mr. BROWN:

Q. Quincey; was it not? A. It was Quincey; John D. Quincey; we tried the case and both sides submitted briefs, and the license was revoked; the place is without a license to-day; Mr. Bell, prior to his filing the complaint, or this protest, on which we took action, had Mr. Griffith indicted by the grand jury, and that trial has never come forward; our people have been subpoenaed from time to time and attended regularly; I think Mr. Bishop was subpoenaed a week ago last Monday, and then again on the following Wednesday, and then again on last Monday, and nothing has ever come, so far as I know, of the trial.

Q. Did you vote to license Gombossy's place? A. I don't know; I should have no hesitancy in doing it.

Q. You would have no hesitation in doing it? A. No, sir.

Q. Would you have no hesitation in doing it now in view of what has appeared in regard to the place during this investigation? A. Not a particle.

Q. Do you know what the police board did in regard to Officer Price and another officer? A. I will state this, that we had the report on Gombossy's place; our attention was called to it and we had the police report, and I think one of the best captains in New York, Captain Meakim, recommending it in every respect; I passed by there several times during the night myself in order to see—some of these newspaper reports ought to be substantiated, and I found that the doors were wide open, a regular concert going on; every person passing the door could look from one end of the room to the other to see what was going on in passing the place; so that in view of that I think I would be doing the man an injustice were I to vote against renewing his license.

Q. Did you vote to license Walsh's place; I think it is on the corner of Fourth and Thompson street? A. I do not know whether I did or not.

Q. You know the place; do you? A. I think I do — I don't know the place; I was going to say I know nothing against the place, but I can not recall the facts there.

Q. That is the particular place concerning which Mr. Ely and his society made a complaint? A. And Mr. Levy made the protest.

Q. No; Mr. Ely? A. Mr. Ely and Napoleon Levy.

Q. Mr. Ely came here and testified, whereupon we got the reports of the department, and the reports of the inspectors were so scandalous that they could not even be put in public print, although they are spread upon our record, and those reports appear to have been before your board at the time the license was granted? A. The place was formerly occupied, if that is the place, by Coroner Henry; he had a lease of it; is that Thompson or Green street?

Mr. LEVENTRITT.— It is a different place.

The WITNESS.— Then I don't recollect anything about it, and don't know whether I voted for it or not.

Q. The records, as I understand from Mr. Gale when he was on the stand, show that you did vote for it? A. That may be; how is that Mr. Gale.

Mr. GALE.— He was licensed by the former board.

By Mr. IVINS:

Q. The place had been licensed by the old board, there had been a revocation, there had been an application by a new party, and it was one of the first acts of your board to grant the license to this new party for this place, concerning which these reports were on file and the testimony which was given shows that it has continued in about the same way in which it had been prior to the licensing to a new party, and that the relations between the old party and the new party were very close.

Mr. GALE.— The reports were not in on the application when we acted on it.

The WITNESS.— That is entirely new news to me, and I shall be very much astonished if I were confronted with a record of that kind; I can tell you as to that.

Mr. IVINS.— Mr. Gale has already been sworn, and I will ask him some questions now.

Mr. GALE, recalled.

By Mr. IVINS:

Q. Mr. Gale, were not the reports of the inspectors, with regard to this place, on file in the board of excise at the time that the license

was granted for the same place to a new party, under a bill of sale from the old party? A. They were, but they were not before the commissioners.

Examination of Mr. KOCH, continued.

By Mr. IVINS:

Q. Is it your custom to grant licenses without having the papers before you? A. He does not mean the papers upon which the applications are made; Mr. Gale said the papers were not before the board — Mr. Gale, just state the papers that were not before the board and what paper were before them.

Mr. GALE.—These reports to which Mr. Ivins refers were under another application. When the new party applied, it was one of the first papers before the present board, and during the rush of business the paper was passed through without those reports that Mr. Ivins refers to. They were not attached at all.

Q. It is customary to attach such reports?

Mr. GALE.—It is.

Q. In this case they were not attached?

Mr. GALE.—They were not.

Mr. KOCH.—Were not the papers that were there, to which General Ivins refers, were they not passed upon by the previous board?

Mr. GALE.—No, sir. The previous board sent the inspector to get this information that was put in that paper.

Mr. KOCH.—Did they reject the application?

Mr. GALE.—The case was undergoing a hearing at the time.

Mr. KOCH.—But the papers were never placed before us?

Mr. GALE.—Never placed before the board.

Mr. IVINS.—Mr. Andrews, who has also been sworn, says that the license was revoked by the old board.

Mr. ANDREWS.—Complaint against that place was made and we had Mr. Ely as a witness, and revoked the license.

Mr. JOHNSON.—Those papers were not before you when you acted on the application, were they? A. The papers were not before me immediately, or in any way such as they ought to be to warrant me in rejecting the license.

By Mr. IVINS:

Q. Now, if it should appear that you have made a mistake in the granting of a license, and that mistake had been made because of the failure to have those papers before you, who would be responsible; which one of your employes? A. I should say the chief clerk would probably be responsible.



Q. Has any inquiry been made to find out at any time why those papers were not placed before you? A. To my knowledge our attention has never been called to it in that respect; it is entirely new to me.

Mr. JOHNSON.—Did you ever know of it before Mr. Ivins spoke of it? A. It is entirely new to me.

Senator FASSETT.—The importance of this examination is this: It may happen that they may be in possession of the excise commissioners, information which if placed before the commissioner would lead to the revocation of a license or the rejection of an application, and yet the commissioners grant the application; that is owing to the methods pursued while your board has sufficient information in its possession to prevent the license, still the license is granted.

Mr. JOHNSON.—A mistake may occur and papers may not be attached.

Senator FASSETT.—That is exactly what I want to know.

The WITNESS.—It can happen that a mistake can be made by one of the clerks.

By Senator FASSETT:

Q. Then you are to that extent in the hands of your clerks? A. To a very great extent.

Q. And if to favor a friend of theirs they wanted to slide through an application, it would be a very easy thing to do? A. Yes; but if we find it out it would be very dangerous to them.

Q. Do you think this was done in that way? A. I don't think so.

Mr. LEVENTRITT.—Mr. Bishop was not the chief clerk at the time of this occurrence, was he? A. I don't know when it occurred.

Mr. LEVENTRITT.—Between the granting of that license and the omission to supply you with the information in that office; it occurred before May, 1889? A. I have not the papers, so I don't know.

Q. Do you know whether Mr. Harper was the chief clerk then? A. When did that occur?

Mr. IVINS.—It was the first two or three days after your return.

The WITNESS.—Mr. Bishop entered the office over a week or about ten days after that.

Mr. LEVENTRITT.—If this occurred then within the first few days of your office, Mr. Bishop was not the chief clerk? A. No, sir; Mr. Harper was the chief clerk then.

By Mr. IVINS:

Q. Now if you were to find out that a mistake had been made because of the carelessness of your subordinates and an improper place had been licensed, would you yourself compel an investigation



of that place without waiting for any formal complaint for the purpose of revoking the license and remedying the wrong? A. Yes, sir; we would do that, and we would investigate the official, as we have done; we did it in one instance.

Q. Well, we have got pretty well through with the matter of inspecting now; after the inspector has reports, the papers are laid before you, and those papers, among other things, contain an application which is sworn to, do they not? A. Yes, sir.

Q. And let me ask; there are two classes of applications, are there not; one for the original licensing of a new place, and the application for a license of a place where there has either been a renewal or a bill of sale to a new party? A. Yes, sir.

Q. And the applications are not identical in those cases? A. Yes, sir.

Q. Now these applications are sworn to, among other things, the applicant swears that the building is named so and so, which name of the building is subsequently transcribed by the inspector? A. Yes, sir.

Q. Where it is located and what it is to be used for, etc., etc., and by whom owned, all of which is part of the record that the inspector copies in making his report, and all of which is already here [referring to paper], and did not require to be copied because it is on the same paper? A. Yes, sir; except the question of moral character.

Q. Then he swears that neither he nor his employes have been arrested for violation of the excise law? A. Yes, sir.

Q. Then he swears that neither he nor his employes have been convicted for violation of the excise law; that no license of his, of this or any other place has ever been revoked; he swears also that the premises were never reported as disorderly; he swears that no part of the building is to be used as a skating rink, concert room or for other purposes of entertainment, as the case may be; he himself swears as to the proximity of other places, and swears that he is a citizen; those are sworn to before a commissioner of deeds, are they not? A. One of the application clerks.

Q. One of the application clerks who is also a commissioner of deeds? A. Yes, sir; there are three application clerks, each a commissioner of deeds.

Q. Now, what is the motive for exacting that oath from the parties on this application; is it so that they can be held criminally responsible for a misstatement? A. They ought to be, but the motive appears to have been originally in the hands of those who preceded us —

Q. But you still do this to-day? A. Yes.

Q. This is on the application of Mr. Berthold whom you have just licensed on Fourteenth street [referring to paper]? A. Yes, sir.

Q. Why should you exact that affidavit from Mr. Berthold?

A. There is no reason for it; his statement of it ought to be sufficient under the law.

Q. Isn't there really a reason for it, that if the affidavit were taken before some person who was properly qualified to take it he could be held responsible penally, for any misstatement? A. Yes, sir.

Q. Then why are not these affidavits by applicants sworn to before the commissioners themselves? A. Because the commissioners have hardly time to attend to it; it is only a convenience, that is all.

Q. Failing in that, so far as the penalty is concerned, the affidavit may be dispensed with and the signature of the party taken? A. I think so; I think any willful and material misstatement should operate as a revocation of a license.

Q. This is accompanied by a bond, is it not? A. Yes, sir.

Q. Who draws those bonds? A. One of these application clerks.

Q. One of these application clerks? A. Yes, sir.

Q. You heard the discussion here, yesterday, concerning these bonds? A. Yes, sir.

Q. What is your opinion as to the actual value of those bonds to the excise commissioners as a means of preventing mistakes of judgment on their part as to proper parties to license? A. Do you want me to state it?

Q. Yes. A. I don't think they are worth the paper written on.

Q. You don't think they are worth the paper written on? A. Never thought they were.

Mr. BROWN.—Does that apply to all?

The WITNESS.—No, not all; I mean as to the saloons, and I assume that Mr. Ivins means them.

Q. Now, in view of the fact that none at all have sought to be enforced of late years, does not your answer apply practically to all? A. I don't know that there has been any violations, in other respects, of any consequence, although I believe test cases have been made.

Q. Now, who prints those forms of bonds? A. The board of excise has them printed through its clerk.

Q. Then that is a useless public expense, so far as it would appear?

Mr. JOHNSON.—Why don't you ask him whether he thinks the law ought to be amended?

Mr. IVINS.—I will ask him that when the time comes.

The WITNESS.—What is the question?

Q. That is a useless public expense to print the bonds, is it not?

A. Well, it would be a logical deduction, of course.

Mr. JOHNSON.— I agree with him.

Q. Does it not take considerable time of some of your clerks to fill these bonds out? A. Yes, sir.

Mr. JOHNSON.— The law requires the bond.

Mr. IVINS.— It may be useless, notwithstanding the fact that the law requires it.

Mr. JOHNSON.— They are bound to comply with the law.

Q. I am saying nothing about the regularity or the irregularity of the course of the commissioners, but it would seem to be useless to put in the records of the county clerk's office many thousands of these. A. And paying the fee for filing.

Q. And that is a source of revenue to the city, however, the paying of the fee on the filing of that bond? A. That is a source of revenue to the county.

Q. Now to whom is the drawing of these bonds a source of revenue?

A. The drawing of the bonds?

Q. Yes; to whom is the drawing of the bonds a source of revenue?

A. I don't know.

Q. Have you ever taken any steps to find out to whom the drawing of the bonds is a source of revenue? A. No, sir.

Q. Do you know whether anybody in or about, or connected with your department in any way, ever exacts from applicants any fee for drawing these bonds? A. No, sir; I do not.

Q. You never heard of any such thing? A. No, sir; I should not permit it.

Q. Do you know whether or not the commissioner of deeds who swears these applicants and who swears the sureties on the bonds, takes a commissioner of deed's fee? A. No, sir; I do not.

Q. Do you know that he does not? A. I do not; I don't know anything about it.

Mr. IVINS.— Mr. Gale, how is that; is it customary to take a commissioner of deed's fees?

Mr. GALE.— No, sir; it is not.

The WITNESS.— I know previous to the last board there were a number of people who hovered around the board, who made it their business to do that, but I believe the last board did away with them. Isn't that so, Mr. Andrews?

Mr. ANDREWS.— I did not hear that.

The WITNESS.— I say previous to your board a number of people

hovered around and did that, and you established the application clerk, and they were not allowed to take any fees.

Mr. ANDREWS.— Previous to our going into office there were application clerks just as there are now, but the board authorized persons whom they called notaries — they were not appointed, but they simply had authority to take acknowledgments, and they visited the saloons and charged for filling out the bond and swearing the applicant. That was changed; we stopped that completely, and compelled all persons to come to the board, and we stopped the fee system absolutely.

Senator McNAUGHTON.— Is it not the rule of your office that everything of that kind is done without charge?

The WITNESS. — Yes, sir.

Mr. LEVENTRITT.— Does not that appear on posters around the office?

The WITNESS.— Yes, sir.

Mr. LEVENTRITT.— Persons having dealings with the office have these posters before them, so that they are apprised of the fact that they are to pay for no services rendered there?

The WITNESS.— Yes, sir.

Senator McNAUGHTON.— It is a rule of the board that if a clerk does receive fees he will be discharged, is it not?

The WITNESS.— Yes, sir.

By Mr. IVINS:

Q. Speaking of the rules, let us now revert to those generally; we understand from the testimony taken that the rules of your board are identical with the rules of the old board, with the exception that rule No. 4, that is the rule concerning licensing a place next door of another already licensed place? A. Yes, sir.

Q. Are we right in so understanding? A. I think so.

Q. Now will you tell us when rule 4 was changed and why it was changed? A. Rule 4 was one that I never held myself amenable to; I protested at the time —

Q. You mean old rule 4? A. If it is the one you said, why, I know it; Commissioner Fitzpatrick and Commissioner Meakim stated that they thought that was a good rule; we had not been in the board over six months before it was deemed entirely impracticable; I do not know the day on which it was revoked, but Commissioner Fitzpatrick voted to revoke it and I voted with him, because I never thought anything of it, it was impracticable; but I think Commissioner Meakim adheres to that rule to this day.

Q. You say it was impracticable? A. Yes, sir.



Q. Do you know of any failure on the part of your predecessors to observe the rule? A. I do not.

Q. Then why do you say it is impracticable? A. I don't know whether they did it or not.

Senator FASSETT.—Is that rule 4, a third corner will not be licensed as a new place?

The WITNESS.—Oh, no; that we adhere to strictly.

Mr. IVINS.—No; rule 4, prior to the entering of this board, was somewhat different from this. In addition to the fact that a third corner would not be licensed as a new place, it also provided that a place next door to a place already licensed would not be licensed. At any rate, the provision of the rules to prohibit the licensing of the place next door to a place already licensed was stricken out, so that now the board licenses places next door to a place already licensed, and whereas it was the policy of their predecessors not so to do, that was expressed in the rules.

Q. Now, I want to know the reason for changing the rules, and you say it was impracticable; now, I want to know if it is not entirely impracticable for the board to say it is not proper to license a place next door to another place already licensed, and then enforce the rule and not permit such a place to be licensed, is not that possible? A. If the rule were that the place next door to a place already licensed must be licensed, why, that would be all right, but it would simply become a dead letter; every case must stand in its own particular place.

Mr. JOHNSON.—It must stand on its own merits?

The WITNESS.—It must stand on its own merits. We have places where it would be entirely impracticable, where it would be wrong, where it would be almost a crime.

Q. Those are renewals, are they not? A. I say new places where an old one already exists on certain blocks, and a number of blocks—

Q. And it would be almost a crime not to permit a man to have a license? A. To permit a man to have it; I should vote against it, rule or no rule; but there are places in the city where it would do nobody any harm, where a liquor, beer saloon for instance, what is strictly an ale and beer place—a block that has a mixed class of people there who did not care about drinking ale or beer entirely, and they would like to have a saloon there where they could get harder stuff, as they call it, I don't see any reason why a rule should exist that it can not be had there.

Mr. JOHNSON.—That is an ironclad rule?

The WITNESS.—Exactly.



Senator FASSETT.— You don't mean that it is impracticable; you mean it would be inconvenient at times?

The WITNESS.— I suppose that would be the better way to put it.

Mr. JOHNSON.— You mean it would be unjust?

The WITNESS.— Yes, and unjust; it would be impracticable for the board to do it; we would have to move to suspend that rule, and then somebody would come along and say: "You have done it in that case, why can't you do it in another case."

Q. Now, you have a rule that a license will not be issued for a new place adjoining or in the immediate vicinity of a church, hospital or asylum; what do you mean by an immediate vicinity? A. That depends upon the judgment of the man; the commissioner.

Senator FASSETT.— That is an elastic phase, is it not?

The WITNESS.— Why certainly; it must be an elastic phase.

Q. Would you consider it, being in the immediate vicinity, if a liquor store were located here and a church were located 200 feet down on the other side of the street? A. That would depend upon the character of the neighborhood.

Q. Let us see how that would be; suppose it was a thickly populated neighborhood in which there was a Roman Catholic church only 200 feet away, and suppose on the other hand it was a thinly populated part of the city where rich people lived, and an Episcopal church were there, 300 feet away, what would be the difference? A. the character of the neighborhood would be taken into consideration; we would ask first, is there a saloon nearer to the church than the place applied for; the second consideration would be, is it on the same side of the street where the people are in the habit of passing and repassing when they attend masses or meetings.

Mr. JOHNSON.— It would depend also upon where the entrance to the church was, and where the door of the saloon was, would it not?

The WITNESS.— Of course; I make it a rule to scrutinize very closely applications for license of saloons on the same block, but I am opposed to passing an arbitrary rule that there should be a distance of 300 feet in every direction; say, for instance, there is a church on Thirty-fourth street; if there is a place near the corner, twenty-five feet from the corner of Thirty-fifth street, the distance between Thirty-fourth street and Thirty-fifth street being 200 feet, making 225 feet, and then around the corner fifty feet distant an application was made for a saloon, no objections on the part of the neighbors, no church or school-house there, I should think it would be a great hardship if a landlord could let that place there not to allow him to do so because there might be a rule that it would not be allowed within 400 feet;

now that is the difference between my associate, Commissioner Meakim and myself; he will establish a rule of 400 feet, it don't make any difference in which direction; Mr. Fitzpatrick will establish a distance of 250 feet or 300 feet; my own impression is that it should be treated according to the merits of the case.

Q. The result of which is that this rule as it appears on the face of the papers, is really and after all no rule? A. I will tell you what the result of that rule is, and it was talked over by Commissioner Fitzpatrick and myself about two weeks ago, that just as soon as Commissioner Meakim returned we would amend the rule some way so as to make it comprehensible; not so elastic as the chairman remarked, as it actually is.

Q. Even after you have done that, there is nothing to prevent you disregarding it, is there? A. I don't think it is likely that all three will disagree.

Q. How many votes does it take to change a rule? A. Two votes.

Mr. JOHNSON.—That is the same way as it is in every department?

The WITNESS.—In the dock department they have by-laws, but they are compelled to have by-laws under the laws of the State; we are not.

Mr. JOHNSON.—It is a matter of discretion; it is a matter of discretion entirely.

Q. The power that makes the rules can suspend them? A. Yes, sir; and that was held in an excise matter in the board that Commissioner Andrews was a member of; it was held that any rule could be changed at any time that two commissioners desired to vote that way.

Mr. ANDREWS.—It follows, as a matter of course, from the law?

The WITNESS.—I mean there was a suit pending at that time.

Q. Your board is not in any sense bound by these rules? A. How do you mean?

Q. As a board? A. They are bound to carry out what they are directed to do.

Q. They are not in any sense fast rules? A. No, sir; I never regarded them in that way, and I told Commissioner Meakim and Commissioner Fitzpatrick that I thought it was nonsense to put any rules in when they were being prepared.

Mr. JOHNSON.—They are simply declaration of independence.

The WITNESS.—A declaration that each man goes as he pleases.

Q. Then the rules themselves fall into the general category with much of the other documentary work of the office as being after all something to be read and looked at, and not to be too much relied upon? A. I always found that to a very great extent in many of the departments that I have been a member of and that I have been attending.

Q. Now, as to a third corner, you say you will not license a third corner for a new place where the two corners of any street are already licensed? A. That has been a rule that has been righteously adhered to since our board went into existence.

Q. There have been no exceptions? A. There have been no exceptions.

Q. Still you could to-morrow, if any two of you wish, license a place notwithstanding that rule? A. We could if we chose; we could license all four corners if we chose; there is nothing against it, unless you can show me something to the contrary.

Q. Now, it is not your custom to license to the same person two different places in the city, is it? A. No, sir.

Q. The reason for that is, what? A. The law proclaims against it entirely.

Q. Now, how do you evade the law? A. We do not evade the law.

Q. How does the other fellow evade it? A. I don't know.

Q. Do you know Mr. Stokes of the Hoffman House? A. Yes, sir.

Q. Do you know that Mr. Stokes has three, four or five different liquor saloons in New York city? A. I do.

Q. Then there has been evasion somewhere? A. No, sir; the law is this, as I understand it, and I think you will agree with me also; the law says there shall not be two licenses issued to the same person, but it does not prevent any man who holds a license already from being interested in the business with another party who holds a license.

Senator FASSETT.—There is nothing preventing an interest?

The WITNESS.—No, sir.

Senator FASSETT.—As a matter of fact, don't all these large breweries control a large number substantially?

The WITNESS.—No, sir; except in this way: They take chattel mortgages.

Mr. BROWN.—Brewers are not required to take out a license.

The WITNESS.—They hold chattel mortgages on quite a number of places, but the parties own the places.

By Mr. IVINS:

Q. Is there any reason, in your judgment as an excise commissioner, as a citizen and an ex-legislator, why the law should not openly permit one person to have a license for two or more places, in view of the fact that it now virtually results in the same thing? A. I see no more reason for that than passing a proper Sunday law.

Q. Let us take the case of Mr. Gerkin for instance, or Mr. Stewart, who have three or four different places —

The WITNESS.— Mr. Delmonico.

Q. [Continuing.] Or Mr. Delmonico; if licenses were to run to them individually and they were made responsible— Park & Tilford is another illustration— A. I never could see any reason why that law should exist.

Mr. JOHNSON.— Is there any more reason why a man should not carry on the liquor business in three different places than there is that a man should not carry on three dry goods stores?

Senator FASSETT.— Aren't there more reasons why it should be so? Is it not easier to obtain a small number of perfectly reliable and responsible parties to carry on a large number of places? A. I think that would be the effect. It would have a more salutary effect.

Mr. BROWN.— That would be establishing a monopoly.

Senator FASSETT.— If it resulted in decency and a compliance with law and order, perhaps that would be a good thing. Why would it not be a good thing to establish a monopoly?

Mr. IVINS.— As a matter of fact, can not any man in New York city, who has got enough money to do it, and who will sell sufficiently good liquors and sell them cheaply, virtually get a monopoly under the present law? A. It would not astonish me; it could be done.

Senator FASSETT.— You have testified that you think it would be a good plan to license places? A. Yes, sir.

Q. What would you think of having these places, after once being licensed, put up at public auction to be sold for a definite period of time to the highest bidder? A. I never thought of that.

Q. It would result in a very fine revenue to the city, wouldn't it? A. It would result in a very fine revenue for the city, there is no doubt about that; of course I never thought of that.

Q. You commissioners have, have you not, absolute discretion after an application is made and all your forms are complied with as to whether you will or will not grant a license? A. Yes, sir; I think so.

Q. And as to where you will put them? A. Yes, sir; it makes no difference where we put them.

Q. Then it lies within your power to control the liquor traffic, does it not? A. I think so; that is my judgment of the law.

Q. As the law is to-day? A. Yes, sir.

Q. And there is nothing to prevent your limiting the saloons to one saloon to every thousand people? A. Nothing in the law.

Q. Or a saloon to every five hundred people? A. Exactly; I think we could do that, to establish a rule, if we desired to comply with it, just as we did in regard to the three corners, and not grant an application for a new place, unless an old license is surrendered.



Q. Then any difficulties or complaints that are made against the present situation of things, could all be remedied by your board under the powers you now possess? A. The powers, I think, are very wide, but then the laws are very crude at the same time; I think it would be far better if there were a little more definite legislation.

Mr. IVINS.—I find there is a difference here at once between Mr. Andrews, who at one time was in the board, and who has already testified, and Judge Brown, the counsel for the present board, one of them holding that the law does not preclude the licensing of one person to sell in a number of places, the other holding it does. For the purpose of facilitating matters, I would like to read that section and have it go on the record, because, as you just suggested, it may be desirable to have the law made somewhat more clear and specific, in any event: "The board of excise in any city, town or village shall have the power to grant license to any person or persons of good moral character—" so that they are required by statute to say that it is good moral character?

The WITNESS.—Yes.

Mr. IVINS.—"— who shall be approved by them, permitting him or them to sell and dispose of at any one named place within said city, town, village," etc. That is section 12 of the Laws of 1873.

Q. Commissioner Koch, are you of the opinion that the excise commissioners are by law either authorized to or required to maintain a surveillance of the liquor traffic in New York city, apart from the granting of licenses and the revocation of licenses in specific cases? A. No, sir; I do not think we are; I have expressed myself to that effect and hold an opinion from Judge Brown, in which he agreed with me to a great extent.

Q. Do you think that you are required by law to have your inspectors keep themselves posted as to the continuous good standing and reputation of the licensees of the board? A. I don't think that we—

Q. I said "required?" A. Required; no, sir.

Q. Now, do you think that you are permitted by law? A. That is a matter of extreme doubt with me.

Q. The other you are certain about? A. I am certain; this I am doubtful, but doubtful in the direction that we have not the—

By Senator FASSETT:

Q. You do not think you have? A. I do not think we have.

By Mr. IVINS:

Q. You do not think you have the right to send an inspector to a certain place where the inspector himself has accidentally discovered,



for instance, that something wrong was going on and reported that to you, that you have a right to send him or the chief inspector to look into it, and so take the initiative yourselves, without waiting for the complaint of a neighbor; don't you think you have the right in such a case? A. Well, in that case I think we have the right.

MR. JOHNSON.—The law says they may investigate, and shall, on complaint.

Q. Now, since the law says you may investigate, what is to prevent your having a systematic investigation? A. Just allow me to read it as it reads; I think it says that the board of excise may, and upon complaint shall.

MR. LEVENTRITT.—That is the language of the act. I will get it for you in a moment.

MR. JOHNSON.—That is the language of it.

MR. LEVENTRITT.—You have it exactly right, commissioner.

Q. Now, "the board may, and upon complaint shall;" does not that give you authority, if you see fit to exercise it, to institute a regular systematic inspection of the manner in which the traffic is carried on in the several precincts of the city? A. Hardly.

Q. Well, why not? A. Because I do not think that that is implied in that.

SENATOR FASSETT.—That is not the question, whether you think the law contemplated that, but whether the law, reading that way, prevents your doing it.

MR. IVINS.—Whether the law permits them to do it. If you wanted to-day to send three inspectors into this precinct, and say we have heard generally, without any complaint, but we have heard generally by public rumor and something that has appeared in the newspapers, that in the second district, for instance, the liquor laws are not being well observed, or in the fourth district they are not being well observed, and we want you to go down there and see whether they are or not being well observed, although no complaint has been made; it is a sort of public scandal; wouldn't you have the right under that provision to send a half dozen inspectors down there?

THE WITNESS.—I don't think we would.

Q. And keep a watch on the thing a week? A. No, sir.

MR. JOHNSON.—Aren't you stealing a legal opinion from the judge?

MR. IVINS.—I want to. The judge is a lawyer; his legal opinion is very valuable; he has also helped make the laws, and he is now administering them.

THE WITNESS.—I think the proper thing in that case would be to bring us some proof; or "are you ready to prove?" and we will

summon that party. Or, if we thought the party was out for black-mail, we might send for the police and notify them.

Q. On that theory you never would take any steps without a specific complaint from an individual, would you? A. Information of some kind.

Q. Then if the public believes that your department is responsible for the surveillance of the traffic in this city, the public is entirely deceived and wrong in that belief, is it not? A. I think they are; yes, sir.

Q. Who is responsible for that? A. I think the police department would be largely responsible.

Q. You think the police department would need the strong right arm of the district attorney, however, do you not? A. I think so; yes, sir.

Q. Don't you, as a public officer and a man who has been watching this traffic, and who is now administering this law, realize that there is a doubt all around as to who is responsible? A. Yes, sir; I do, and I think that doubt ought to be cleared up, and the sooner the better.

Q. Now, how would you suggest that it be cleared up? A. Well, I don't know.

Q. We want your suggestions as an expert in this business? A. I think there ought to be two sides.

By Mr. JOHNSON:

Q. To your board? A. To the board of excise; there ought to be an administrative and executive side, and there ought to be a judicial side; the administrative side ought to take up all matters affecting licenses to which there are no protests, no complaints, and recommendations from the judicial side after protests and complaints shall have been heard by them, which shall be referred to them by the administrative board; I think the judicial side should have a certain number of police, of the municipal police assigned to them, probably similar in manner to the way in which Mr. Beattie has—sixty or seventy, or whatever number would be required in order to have all the functions and all the powers of the police to carry out the police regulations, you think if every police arrest were treated as being equivalent to a specific complaint—mark you, that is my own individual opinion.

Q. I understand that; that is just the opinion we want, your own individual opinion; well, do you think if every police arrest were treated as being equivalent to a specific complaint, and in addition to

taking these alleged offenders before the criminal machinery of the law they were also to be taken before the excise commissioners and the policeman made a complainant and asked to prove his case, and upon ample proof being given in that particular case, a revocation were to follow, don't you think that that, carried out systematically, would really be the sufficient application of a penalty so as really to bring the offenders within the law, and sooner or later minimize offenses against the law? A. Yes, sir; I do; and I think, in addition to that, any person—that the oath of any person who swore that he had no interest, or that nobody else but him had any interest in the place—should be perjury.

By Senator FASSETT:

Q. Any false swearing as to any papers which you require ought to be constituted by the law perjury? A. Yes; perjury.

Q. Punishable as such? A. As such.

By Mr. IVINS:

Q. Do you think that the liability to arrest and fine, particularly where the liability or conviction and ultimate punishment only applies to about one case out of ten, begins to be as effective a remedy as the deprivation of a party of his license? A. No; I do not think it does.

By Senator FASSETT:

Q. You think the most effective remedy would be a revocation of the license? A. The revocation of the license.

By Mr. IVINS:

Q. You think that would be a much more effective remedy than the mere liability to be arrested nine times and tried once? A. Yes, sir; I do.

Q. And then to be fined only \$100, if convicted? A. Twenty-five dollars.

By Mr. JOHNSON:

Q. But the present board would not have time to attend to that, would they, if they had the administrative as well as the judicial? A. No, sir.

Senator FASSETT.—Your suggestion, judge, goes to the creation of a double board; you do not mean a single board with double-headed powers, but substantially two sets of men? A. Two sets of men.

Q. Acting independently of each other; one to grant licenses, hearing applications, and one to revoke them? A. An excise board and an excise court.

By Mr. IVINS:

Q. Has your attention ever been called to the possibility of placing some jurisdiction in the hands of police magistrates? A. No, sir.

Q. And then providing that wherever the police magistrate had punished the party, no matter if it were ten dollars or twenty-five dollars, that the decree in that case, or that the result of that trial should, *ipso facto*, vacate the — A. It does, and the party can not get a license for three years.

Mr. LEVENTRITT.—Not before the police magistrate.

Mr. IVINS.—Have summary jurisdiction? A. No; I thought you meant before the sessions.

Q. Oh, no; we understand it does before the sessions? A. No, sir.

Q. What do you think of the desirability of placing summary jurisdiction in the hands of the police justices to impose penalties for violation of the law but with the provision to follow that where a penalty of that kind had been imposed, the license should be *ipso facto*, terminated? A. With fair-minded police magistrates I think that it would be a good thing.

Q. Then, if that thing did not work well, if it were tried and, in your judgment, did not work well, it would be, in your judgment, the fault of the magistrates? A. Yes, sir.

Q. Now, do you think there would be any danger in that system in bringing the police magistracy too closely in connection with the liquor traffic and that class of politics which grows out of the liquor traffic? A. Might be; yes, sir.

Senator FASSETT.—Can they be brought much closer than they are?

Mr. IVINS.—The commissioner has never been a police magistrate.

The WITNESS.—No particular desire either.

Q. Now, commissioner, you have a perfect right, have you not, your board, arbitrarily, if you wish, to limit the number of licenses that you will grant in the city? A. Yes, sir.

Q. You have also a perfect right to limit the number of places that you will license for any specific territory? A. Well, wait; I wouldn't be positive about that, because that mandamus law that was passed by Charley Smith some years ago is very loose and very elastic, so I spoke too fast.

Mr. LEVENTRITT.—Mr. Ivins used the word "arbitrary."

Q. I do not mean arbitrary in that sense; I mean it is within your power to say to-day: "We, as a board, will only grant 2,500 licenses in New York city?" A. Subject to review by the court we would, under that mandamus act.



Q. Then you think if you granted your full 2,500 and a man were to come up and ask for the twenty-five hundred and first, that they might appeal from you to the courts? A. To the courts; yes, sir.

Q. As matter of fact, the ultimate administration of this whole system, in virtue of that Smith bill, has been thrown on the shoulders of the court, has it not? A. Entirely; yes.

Q. And you know of cases, do you not, in which, while in your judgment, the license should not have been issued, the courts have, nevertheless, compelled the issuing of a license? A. Well, not—

Q. In the judgment of the commissioners, I say? A. Not within our term; we have had a half dozen applications which we have refused; parties have appealed to the courts and in each case the court denied them the application.

Q. There have been very few of those cases, have there not; how many were there; four or five, six, probably?

Mr. LEVENTRITT.—Not more than that, certainly.

The WITNESS.—Not more than that.

Q. That did not require a great deal of attention on the part of the counsel, did it; that was not the burden of his work? A. No, sir.

Q. I was half led to suppose, from some of the testimony, that it was. A. In one case there was a license granted; that was the Kruse case, I think.

Mr. LEVENTRITT.—That was before your term?

The WITNESS.—That was before our time.

Mr. LEVENTRITT.—And that is now pending in the Court of Appeals.

Senator FASSETT.—That is the case in which a bill was passed, is it not?

The WITNESS.—Yes, sir; counsel asked me whether I recollected any; I do not recollect that case.

By Mr. IVINS:

Q. Now, commissioner, have you any suggestions to make further than those that you have already made in passing, with regard to possible amendments in the law or possible improvements in the service under the laws as they exist? A. No, sir; not just at the present, but if the committee desire, I will devote my attention to it and write out some suggestions to you.

Q. Will you do that in such a way that we can spread your suggestions on the record after you had a chance to thoroughly mature them? A. Yes, sir; I will do it, and will do it succinctly; and when will you want it—three or four weeks?

Q. Any time within a month will answer for that, before the draft-



ing of the report to the legislature. A. Yes, sir; well I will do it between now and the first of November.

Mr. IVINS.—Now, Mr. Chairman, I expected that Mr. Fitzpatrick would have been here, and that between these two witnesses it would have taken the day, but Mr. Fitzpatrick is not here, and that is all I desire to ask this witness.

By Senator McNAUGHTON:

Q. Do I understand you to say that you approve of the system of transferring the licenses without the consent of the board? A. No, sir; not without the consent of the board, but that formal way; if a party presents himself personally, and to the satisfaction of the commission, either of the commissioners or a majority of the commissioners could indorse; you see the way in which it is done now, a party asking for a transfer, even, is obliged to go through all the forms of the person making an application for a license itself; now, I think that is entirely red tape; a man conducts himself well, and inspection could be made in five minutes of the place, and we could see from our maps, from the records, whether the place is a proper place to be licensed.

Q. That is, the new place? A. New place, and the indorsement might go on just the same.

Q. Then you approve of having the license operative in the new place, if you approve of the new place as a location? A. Yes, sir; it is anyway, except all the circumlocation has got to be gone through with.

By Mr. JOHNSON:

Q. It is a very difficult office to fill and one in which you are very likely to be imposed upon, is it not? A. I think so.

By Senator McNAUGHTON:

Q. How many licenses have you granted since the first day of January up to this time? A. I can not tell very well; our fiscal year ends on the first day of May; Mr. Gale probably would know because he is more directly—

Q. But when you make your annual report to the mayor — A. We make it in May.

Mr. IVINS.—We have that. It is 8,085 licenses were granted during the year of the board, and there were 11,000 and odd inspections made for the purposes of licensing in the first instance, and to that had to be added the special inspection made semi-annually looking over the whole city.

By Mr. JOHNSON:

Q. Just one thing, commissioner; on these questions of revocation of licenses you have regular trials; counsel appear? A. Yes, sir.

Q. And proceedings are conducted the same as in court? A. Sometimes run along four or five or six hours a day.

Q. Then you have different sessions; you have adjournments of them? A. We have adjournments of them; they are set down regularly; we have our record; we can show you our record, in which every proceeding is noted.

Q. Does it not consume actually a great deal of the time of the commission? A. It does, particularly—now, the election day cases consume, I should judge, in the aggregate probably nearly 200 hours

By Senator FASSETT:

Q. How long before those complaints are made do you take it up for trial? A. Took them right up as soon as they presented their complaints; they were tardy in bringing them at first; they never started their complaints, the first batch, until about the fifteenth of January, and now we have got this Briton society—we have got them; there are twenty-five down for to-morrow.

Mr. IVINS.—Speaking of that, will you permit me to interject something here while I think of it; you speak of the Briton society? A. Well, Dr. Gunn's society.

Q. Well, that is the society of which Mr. Joseph A. Briton is an officer, is it not? A. Yes, sir.

Mr. IVINS.—I want to say to the committee that Mr. Joseph A. Briton has been reported to me by half a dozen people as having alleged that he was in the employment of this committee and was seeking evidence of divers kinds for this committee. I wish to say to the committee that neither I nor anybody on my behalf, nor any of the counsel for this committee, directly or indirectly, at any time or in any way, have ever employed Mr. Briton for any such service.

Senator FASSETT.—The committee certainly has not.

By Senator McNAUGHTON:

Q. Is not your report to the mayor made on the last day of December of each year? A. I think it is on the first of May, is it not?

Mr. GALE.—Last of December.

The WITNESS.—Last of December; I was confusing that with the dock board report; that is on the first of May.

Q. Well, that then includes—you include the first four months of the term of which some other commissioner may have been in office?

A. Yes, sir; first four months that the old commission were in office; yes, sir.

Q. Don't you think that objectionable? A. I think it is.

Mr. JOHNSON.—Each board ought to report for itself, ought it not?

Q. Each board should report its own facts, say from the first of May to the first of January? A. It could operate no harm in the case of the excise board, because it has nothing to do with the city government as a city government.

Q. Well, it operates harm in misleading the public. A. I say it could do no harm in changing the law in the way in which you suggest.

By Mr. LEVENTRITT:

Q. I want to ask you this question: In the months of April and May are not the commissioners engaged there until almost midnight very frequently, merely signing licenses and approving of bonds? A. I have been engaged there not only—during the first week in May I was there until 10 or 11 or 12 o'clock, and then during three Sundays—took work home on Sunday that occupied me two or three hours.

Q. So that there is very little opportunity afforded the commissioners during these months, at least, to entertain any of these applications for revocation of licenses or matters of that kind, is there not? A. Very little; still they are expected—

Q. Is not that one of the reasons of the delay, sometimes, in the procedure of those trials before the commissioners? A. Yes, sir; there is no doubt about that.

By Mr. BROWN:

Q. The same form as to protests as to licenses? A. Certainly; I explained that when I explained it originally, the system; Mr. Johnson do you want to ask me anything?

Mr. JOHNSON.—No; I do not just now.

By Mr. LEVENTRITT:

Q. With regard to the non-competitive examinations made by the State civil service board, has your attention been called to this portion of the report with reference to the qualifications of the employes; that marked in brackets [presenting report]. A. "It has been my aim to make these examinations."

Q. Will you please read that? A. "It has been my aim to make these examinations so thorough that the certificate of the commission would be a guaranty that the person obtaining it possesses the expert knowledge necessary to the successful performance of his duties."

Q. Does that apply to the inspectors nominated by the excise board, to the civil service commissioners? A. I presume it applies more particularly to the inspectors of the excise board than to any other class.

Q. To whom is that addressed, that report; to the Governor? A. No, sir; I think—

Q. It is the civil service report; chief examiner of the civil service report this year, 1890? A. That is to the Governor of this State.

Q. To the Governor of the State? A. Yes, sir.

Q. And the inspectors of excise come within schedule "C" of the civil service rules and regulations of this city? A. Yes, sir.

Q. And that report refers to those enumerated in schedule "C?" A. Refers to the inspectors of excise; those are enumerated in shedule "C."

Q. Now, is it not a fact that in the applications for appointment to the excise board, that the recommendations of individuals, with their name and address, is appended to each application for examination of applicant? A. I think I explained that, judge; I believe I did, general.

Mr. IVINS.— Yes; you explained it.

By Mr. LEVENTRITT:

Q. And those are examined again by the civil service board at Albany? A. Yes, sir; and the civil service board at Albany requires a special letter from the party signing the indorsements of the candidate.

Q. And the civil service examiners examine these applicants as to their qualifications to become inspectors? A. Yes, sir.

Q. And pass upon them? A. Yes, sir.

Q. And this report says it is a guaranty of their qualifications? A. Certainly.

Q. As an inspector? A. So it reads.

Senator FASSETT.— The report says they have endeavored to make it a guaranty.

Mr. IVINS.— No. "It has been my aim to make these examinations so thorough that the certificate of the commission would be a guaranty that the person obtaining it possesses the expert knowledge"—

Senator FASSETT.— Mr. Ivins, just read there in that report the number of applications made for examination.

Mr. IVINS.— The number of applications made for examination is forty-eight; inspectors, board of excise, New York, forty-eight, of whom eight were not qualified, of whom forty were qualified, and those forty were appointed, were they not?

The WITNESS.— I presume they were.



Senator FASSETT.—I understood Commissioner Fitzpatrick to testify that the civil service examination, so far as interfering with the wishes of the people who wanted men appointed, was no bar.

The WITNESS.—Well, he was entirely wrong, because I know several instances in which the parties were rejected on account of not being qualified, on account of the manner in which they conducted themselves in the room during the examination.

Senator FASSETT.—There seems to be eight instances there out of forty-eight.

Mr. LEVENTRITT.—In which they were rejected?

Senator FASSETT.—Yes; in which they were not qualified.

Mr. LEVENTRITT.—And the others were qualified and the certificate is a guaranty of their competency.

Senator FASSETT.—That is, it is aimed to be.

Mr. LEVENTRITT.—No; if your honor please, it is this; he certifies that it is; it may be accepted as such.

The WITNESS.—One of the parties rejected was recommended from a very high judicial officer of this county.

Senator FASSETT.—Well, there is the question we were going to take up with Mr. Fitzpatrick. What judges have recommended him?

The WITNESS.—I do not choose to state; I will tell you privately, general.

Senator FASSETT.—I want to find out a little more about this certificate being a guaranty.

Mr. IVINS.—I was going to ask the same thing.

By Mr. IVINS:

Q. Now, have you ever examined these examination papers? A. I did in several instances at Albany; I went in to see Mr. Angle one morning and examined them.

Mr. JOHNSON.—You are an old school teacher yourself, are you not, Mr. Koch? A. Slightly.

By Mr. IVINS:

Q. You are familiar with the scope of the examination? A. Yes, sir.

Q. Now, in your judgment, is the scope of that examination such that if a man passes it is a guaranty that he has expert knowledge necessary for the performance of this work? A. It is a practical examination.

Q. It is not an expert examination at all, is it? A. Well, I would not like to criticise that board?

Q. No, but you have to take its men; don't you? A. Yes, sir.



Q. Then who would be a more proper critic? A. If the examination were referred to, referred to the board and they held responsible, referred to our board and I was held responsible, probably I would have a different line of examination.

Q. Well, don't you really think that if this whole matter were done without the intervention of the board as it is done to-day, and you commissioners were held to a strict personal and broad responsibility, made your own examinations and did your own work, it would be an improvement over the present system? A. I advocated that when I was in the State Legislature and voted on question of civil service, and those were my ideas exactly, and I am on record with reference to it.

Q. One of the reasons for it is, is it not, that the present system does not accomplish the ideals that its advocates designed? A. That the idealists thought it would.

Q. Because of the conditions of the law itself? A. Yes, sir.

Q. And apart from all abstract questions, so far as the existing law is concerned, you think you would be better off without it? A. Couldn't be worse.

Q. Now, have you complaints pending before your board against one Trainor, who has a place on Sixth avenue and Thirty-third or Fourth street? A. I think that we have a complaint against him by this society that I referred to a few moments ago; I think they sign themselves a Society for the Enforcement of the Criminal Law; that is it.

Q. I have just received a letter from one Mr. Leander Richardson, the editor of the *Dramatic News*, in which he calls the attention of this committee to that particular case; and that leads me to ask whether or not there is such a case pending; whether there has been a trial? A. No, sir; I am mistaken there; I do not think that there is a complaint pending; that was the case in which two actors were found in there one night; one Sunday night or Saturday — or Sunday morning; they were fighting with each other or with the barkeeper; one was bruised, but I do not think any formal complaint was ever made.

Q. Have you ever heard anything about that place and the way in which it was conducted? A. Yes, sir.

Q. You know about the place yourself; do you not? A. Yes, sir; I do.

Q. You have been there; have you not? A. Yes, sir.

Q. Been there after 1 o'clock at night; have you not? A. I don't think I have.

Q. Well, don't you know or haven't you heard, that the place is open after 1 o'clock at night; in fact open all night? A. No, sir; I do not.

Q. You never heard that it is one of the so-called all night places in New York? A. No, sir; I don't; it is a hotel.

Q. Well, if this committee now calls your attention to the fact that it is charged, would that be sufficient to lead you to act under your permissible authority to send somebody there to make investigation and look into the matter? A. Certainly I should.

Q. Mr. Richardson is the complainant to the committee? A. The license is in the name of a party by the name of Ennis, and it has been an astonishing thing to me that these people have not been before our board on complaint.

Q. Now, Mr. Trainor is commonly reputed as owning the place, is he not? A. Mr. Trainor is.

Q. And he runs the place, don't he? A. I shouldn't wonder.

Q. And he is a convicted criminal, is he not? A. Not that I know of; that is news to me; no, sir; I always thought he was a very reputable person.

Q. The question has been asked me several times as to whether he was or was not an ex-convict; asked me pending this investigation; I have no personal knowledge about it myself one way or the other. A. I thought that he was a man of very good character.

Mr. IVINS.—He may not be, and I do not want to cast any aspersion on him; I ask you the question because of the rumors.

Senator McNAUGHTON.—Suppose the commissioners were to act upon this suggestion that the committee makes, that complaint; what position do they occupy?

Mr. IVINS.—No, no; they do not make the complaint; they simply call the attention of this commission to the case. That is all there is of it. They have the right on their own motion to investigate it.

The WITNESS.—Yes, sir.

By Mr. JOHNSON:

Q. Now, Mr. Commissioner, a word on this subject of complaints and investigations, and revocations; I understand you to say that you have regular formal trials as to protests, and as to revocations? A. Yes, sir; as to protests and complaints upon revocation.

Q. Can you give the committee an idea of how much of actual time of the board is consumed by these investigations proper as contradistinguished from your other business? A. The average would be about three days a week; five hours each day; about fifteen hours a week.

Q. That is taken up entirely by these complaints? A. Yes, sir.

Q. To the interference of the other business? A. Any other business that is there.

Q. And these matters are regularly heard and disposed of as a court would dispose of them? A. Yes, sir; they are; a docket kept, that is, the register kept.

Senator FASSETT.—No question about the decree being final.

Mr. JOHNSON.—Yes; there is no question about that; I want to show how long, how much time is taken up.

By Senator AHEARN:

Q. Mr. Trainor has been a liquor dealer for a number of years, has he not? A. Yes, sir; I recollect when he was at the Bowery—Trainor and somebody else; corner of Hester and Bowery.

Q. Never had any complaint against his place? A. No, sir; as I say, I have always found him and heard him spoken of in the highest of terms; he certainly has not been a criminal during a period of fifteen years that I have known.

By Mr. JOHNSON:

Q. Well, suppose, Mr. Commissioner, a man had been convicted of a crime, and had served his term, and then behaved himself; would that be any reason why he should not have a chance to reform and carry on that business? A. No, not at all; but I have always looked upon Mr. Trainor's place as a very excellent place; mark you, this is simply a casual opinion that I give you; it is not by any means, so to speak, engrafted in me; I throw that out as a suggestion; I may be wrong, just the same, probably, as anybody else.

Adjourned until half-past 10 o'clock Wednesday, October 8, 1890.

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NEW YORK, *October 8, 1890.*

Present — Senators Fassett, Stewart, McNaughton and Ahearn.

ALEXANDER MEAKIM, called as a witness, being duly sworn, testified as follows:

Mr. JOHNSON.—Before the committee goes on with the examination of Mr. Meakim, I want to say that Mr. Fitzpatrick will be here for further cross-examination, if desired, during the morning, but I understood yesterday from my friend Mr. Ivins, that he did not desire to cross-examine Mr. Fitzpatrick further. If this is so, I should like a public announcement made of it, so that it may not seem as if Mr. Fitzpatrick was shirking a conclusion of his cross-examination. I think my friend does not desire to cross-examine him further.

Senator FASSETT.—There were a few questions we wanted to ask Mr. Fitzpatrick, but I do not know how counsel feels about it.

Mr. IVINS.—So far as I am concerned I do not want to examine Mr. Fitzpatrick further, because the ground I wanted to cover in my further examination of him I have covered in my examination of Mr. Koch yesterday.

Mr. JOHNSON.—I simply want to make the announcement so that it may be publicly understood that Mr. Fitzpatrick is not shirking further examination.

Senator FASSETT.—If we should want Mr. Fitzpatrick further, we will send for him.

Mr. JOHNSON.—Very well, he will be on hand; he will be here to-day.

By Mr. IVINS:

Q. Mr. Meakim, what is your business? A. I am a commission merchant.

Q. Are you now one of the commissioners of excise? A. I am, sir.

Q. And president of the board? A. I am.

Q. How long have you been such commissioner and such president? A. Since the 4th day of May, 1889.

Q. Were you appointed by Mayor Grant? A. I was, sir.

Q. Were you appointed at the request of any organization? A. Not that I know of, sir.

Q. I mean any political organization? A. Not that I know of; it came to me unsolicited.

Q. When were you elected president of the board? A. On the 4th day of May, 1889.

Q. Was that at the first meeting of the board? A. Let me correct that; I was appointed the second day of May and sworn in on the fourth, made president on the fourth.

Q. And you have been president continuously since then? A. I have; sir.

Q. Now, will you, Mr. Meakim, for the committee, in your own way and as you please before any specific questions are asked, state exactly what your duties are, what the general duties of the staff are and what your own understanding of the theory and practice of the administration of the board is? A. Well, as president of the board I preside at all meetings when I am present; as president of the board most all of the complaints go through my hands and are set down for a hearing; of course, as president of the board I have a general supervision, with the co-operation of the other commissioners, with



all of the workings of the office; most all the minutiae work goes through my hands, being president of the board.

Q. What do you mean by that? A. That minutiae work?

Q. Yes? A. Well, if complaints come in, to see that the complaints are attended to, to see that the proper people are sent out to investigate, to see that the investigations are made, and reports handed in to the proper clerks or the proper departments of the office.

Q. You are in reality then the actual executive officer? A. Well, I am the president; yes; the executive officer, with the co-operation of the other two members of the board.

Q. But you do a good deal of business for account of the board, do you not, without any specific direction on the part of the board? A. I take that responsibility upon myself, trusting that the board will sustain me afterwards.

Q. Licenses, however, are never granted without the approval of a majority of the board? A. A majority of the board.

Q. Licenses are never revoked without the approval of a majority of the board? A. No, sir.

Q. Now, how is that majority got, in meeting? A. In meeting?

Q. In actual meeting? A. In actual meeting.

Q. Or do you consider it a sufficient majority if one commissioner says: "Well, I will vote in favor of that," and another says: "I will vote in favor of that," and then one after another they sign it or declare their willingness to do so; do you call that a meeting? A. No; we call a meeting in the morning, and that is supposed to be all day if a quorum is there.

Q. If a quorum is there? A. If a quorum is there.

Q. That is, if a quorum is in the building? A. Up in the meeting-room.

Q. Now, how is it in the matter of appointments on the staff of the force? A. How do you mean, the matter of appointments?

Q. The appointments of your subordinates; that is done by the action of the board? A. That is done by the action of the board.

Q. And all the commissioners who vote in favor of the appointment of an employe are equally responsible, as you understand it? A. They are equally responsible.

Q. Will you describe to the committee what the method of appointment is? A. The applicant is properly recommended to the commissioners; and the commissioners recommend him to the State civil service, and upon him qualifying and receiving a communication from the State civil service, that man is qualified to be



appointed an inspector, having first passed the necessary examination, if the board sees fit to appoint the inspector.

Q. Are you any more responsible for the appointment of subordinates than any other member of the board? A. Am I any more responsible?

Q. Yes. A. No, sir.

Q. Have you ever assumed to undertake the general management and control of the matter of appointments? A. Most of the appointments have been recommended to me and by me to the board.

Q. Who have recommended those appointments to you? A. Outsider have recommended them and the organization have recommended them.

Q. In what form do those recommendations come to you? A. Some of them come through the leaders and some will come personally.

Q. What leaders? A. Well, Senator Plunkett, for instance, Judge — I can't think of his name now — the judge of the twenty-second assembly district — Mr. Bishop may know.

Mr. BISHOP.— Judge McQuade.

The WITNESS.—Yes; Judge McQuade. Hamilton Fish recommended a man.

Q. Who is Judge McQuade? A. Judge McQuade; I believe he is the Tammany leader of the twenty-second assembly district.

Q. Who is Mr. Plunkett? A. Mr. Plunkett is the Tammany leader of the seventeenth assembly district.

Q. Well, do you not know there are quite a number of leaders in Tammany Hall? A. Yes, sir; I do.

Q. Well, are they the only two leaders who have ever recommended anybody to you? A. No; Mr. Frank Fitzgerald has recommended.

Q. Do you know whether there is a committee on patronage in Tammany Hall? A. I do not; I have heard there was, but not belonging to the organization, I do not know anything about the working part of the organization.

Q. Has anybody ever claimed to represent the committee on patronage and made recommendations to you? A. Not particularly, that is, the board has made recommendations and we have made appointments.

Q. Has Mr. Croker ever made recommendations? A. Yes; Mr. Croker has; three or four.

Q. Mr. Croker recommended your secretary? A. Yes, sir.

Q. And your secretary is the most permanent officer of the board, is he not? A. Yes; the secretary and chief clerk.

Q. Did Mr. Croker recommend the cashier? A. He did.

Q. Did Mr. Croker recommend the deputy cashier? A. I think Mr. Croker did.

Q. Did Mr. Croker recommend the chief inspector? A. He did.

Q. Did Mr. Croker recommend the deputy chief inspector? A. No, sir; he did not.

Q. Who else did Mr. Croker recommend? A. Mr. Croker either recommended a man named Stephin or Pierson, I forget which now; that is as far as my memory will allow me to state.

Q. Did Mr. Grant ever recommend any one to you? A. No, sir.

Q. Did any one ever recommend any one to you in Mr. Grant's behalf? A. Well, I think the appointment of the men recommended by Mr. Fish might have come some way through that; I can not say positively.

Q. How did the appointment of Mr. Fish come about? A. Mr. Fish himself came personally to the excise board and asked for the appointment of Mr. James Delaney.

Q. What did you do? A. Of course, I found out that Mr. Delaney was acceptable.

Q. Acceptable to whom? A. The organization.

Q. What organization? A. Tammany Hall.

Q. Is there any reason why you should not have appointed Mr. Delaney without first finding out whether he was acceptable to the organization, assuming that he was acceptable to you? A. I felt that the organization was responsible for the office, and that they ought to have something to say, provided the men to be appointed were competent and capable men; men that the commissioners felt would do their work properly.

By Mr. BROWN:

Q. Are you certain that Mr. Croker recommended the deputy cashier; was he not appointed during the absence of Mr. Croker in Europe? A. I say I am not sure on that; that is what I intended to say.

Q. Was it not Commissioner Martin, who is in charge of one of the districts of Tammany Hall, that recommended him? A. Yes; I think it was.

Mr. IVINS.—Which one?

The WITNESS.—James J., the commissioner of police.

Q. And he was chairman of the Tammany Hall organization of the twenty-first district? A. Yes, sir.

Q. And when you refer to leaders you refer to the chairman of districts? A. Yes, sir; the chairman of the districts.

By Mr. IVINS:

Q. You said a minute ago that the organization was responsible for the administration of the board; did I so understand you? A. Yes.

Q. Will you explain to the committee how the organization comes to be responsible, and what the measure of responsibility is? A. Well, I took for granted, as Tammany Hall has been successful at the election; of course, the people would hold Tammany Hall responsible for the government of the different departments that they controlled.

Q. Is that a superior responsibility to your responsibility as a commissioner? A. No; but as I qualified my statement before, in making these appointments no person would be appointed if he were not a proper person; if he were not a capable person.

Q. Did you ever, directly or indirectly, before taking the office of commissioner, state to any one that in the administration of the office you would recognize the so-called responsibility of the organization? A. No, sir.

Q. Then you are under no obligation in any form, directly or indirectly, to recognize that responsibility? A. No, sir.

Q. And when you took office there was nothing that stood between you and the people but your own conscience and your own oath, was there? A. That is all, sir.

Q. Well, how did it happen thereafter that you came to recognize the responsibility of the organization? A. Well, I felt, as I said before, that the organization having been successful, and that as the people would hold the organization responsible, as long as they were good people, of course, I would give them the preference, but under no condition would we appoint any person whom we did not deem it proper to appoint.

Q. Have you ever refused to appoint people suggested by Mr. Croker? A. We refused to appoint people who made suggestions; I do not know as they came through Mr. Croker.

Q. Well, have you ever refused to appoint people suggested by Mr. Croker? A. Yes, sir.

Q. Who? A. Who?

Q. Yes. A. Mr. Lanigan.

Q. Mr. Mark Lanigan? A. Yes, sir.

Q. Did Mr. Croker recommend Mr. Mark Lanigan to you for a place? A. It was at his suggestion that he was brought before the board.

Q. For what place was Mr. Mark Lanigan recommended to the board? A. An inspector of excise; one of the inspectors of the board.

Q. How long have you known Mr. Lanigan? A. How long have I known Mr. Lanigan?

Q. Yes. A. I have only known Mr. Lanigan since he was an applicant before the board.

Q. On what ground did you refuse to appoint him, on the ground of unfitness? A. I did not think he was a capable man to be appointed.

Q. General character? A. Well, I surmised besides that he was in the liquor business, and of course I take the stand that I would not appoint anybody who had any connection with the liquor business.

Senator FASSETT.—That was one of your tests, was it, that no one would be appointed inspector who was in the liquor business? A. That no one should be appointed inspector who was in the liquor business.

Q. When a person comes to you recommended by Mr. Croker, or Mr. Martin, or Mr. McQuade, what steps do you take for the purpose of investigating the party recommended as to his fitness? A. Well, one of the investigations, of course, is through the civil service board themselves.

Q. Leaving that apart, I mean what investigation do you as a commissioner, or your board as a board, make? A. I make inquiries outside, as I made inquiries in Mr. Lanigan's case.

Q. Has that been done uniformly? A. It has been by me.

Q. Did you make inquiries in relation to the secretary? A. No; the secretary having been so highly recommended, and the secretary having been in a business that would warrant him being a competent officer, there was nothing to warrant us in making an investigation.

Q. That is, there was nothing brought up against him, and you therefore did not think you were warranted in making an investigation? A. He was brought up in the Dodds Transfer Company.

Q. Besides Mr. Croker, who recommended the secretary? A. Besides Mr. Croker, who recommended the secretary?

Q. Yes. A. Nobody, to my knowledge.

Q. You say he came so highly recommended? A. I meant by highly recommended, of course, the recommendations from where he had been before in the Dodds Transfer Company, knowing he had been there for some time; of course, I took that as a proof of his ability; and then the civil service — oh, no; there is no civil service on the secretary.

By Mr. BROWN:

Q. Did you find out how long he had been employed by that company before you employed him? A. I think I did.

Q. How many years had he been employed? A. I don't remember now.

Q. Wasn't it twenty-three? A. I don't remember; I would answer, but I don't know.



By Mr. IVINS:

Q. Now, do you remember having appointed anyone to office on any recommendation of a person not belonging to and being a leader of Tammany Hall excepting only the case that you referred to of Mr. Fish? A. I don't think I do.

Q. You don't recall one? A. No.

Q. Now, you said a minute ago that after finding out if Mr. Fish's man was satisfactory, you appointed him; now just tell us what you did to find out if he was satisfactory, and tell us why you mentioned him as one of those whom Mr. Grant may have indirectly favored? A. I think to the best of my knowledge and belief that after Mr. Fish had been there, I think I called upon Mr. Grant and Mr. Grant was perfectly willing; if I mistake not, I think Mr. Fish referred me to the mayor; I won't say positively.

Q. You don't remember whether Mr. Fish referred you to the mayor or not? A. I don't remember positively, not enough to give an answer under oath.

Q. In either case, did you go to Mr. Grant to find out whether or not the appointment would be satisfactory to him? A. I don't think I did; I am answering that way now because it is sometime back and there are a great many appointments there, of course; I don't want to answer anything under oath unless I am able to state positively.

Q. Has it been your custom to go to Mr. Croker and ask if certain applicants are satisfactory to him? A. No.

Q. Is it your custom to go to any other leader? A. No; the leader generally comes to me or to the office.

Q. Unless the leader happened to be the mayor? A. No; I think that was suggested by Mr. Fish; I think so; that is the best of my belief.

Q. When was that? A. Sometime in the early part of the administration, of this new administration.

Q. Are the qualifications and fitness of applicants discussed at board meetings? A. Before the appointments are made?

Q. Yes. A. It depends altogether on who the persons are; a person like Mr. Bishop was not discussed, because we felt confident that his qualifications warranted his appointment.

Q. So that it was virtually agreed to before you went into meeting? A. I don't say that.

Q. He was not discussed though? A. No; he was not discussed.

Q. Have the board provided any systematic way or means of inquiry as to the responsibility of applicants? A. Of course, the board to a certain extent, are at the mercy of the inspectors.



Q. I mean applicants for appointment? A. Excuse me, I did not so understand you; I could not say about that; if there has been any question against an applicant inquiries have been made; If there was nothing against the applicant and the applicant seemed to be all right — of course, we had the civil service who thought his qualifications would fit him for the position; of course, we stood on that.

Q. You have one case of a man named Redmund whom you found in the office when you went there, a man whom it appears was convicted of a crime and sentenced to State's prison; do you know what answers Redmund must have made in his examination by the civil service commissioners, in order to have prevented a disclosure of that fact? A. That matter was thoroughly investigated; the matter was referred to counsel, and from counsel reported back to the board that as Mr. Redmund was a citizen at the time he made application for the position of inspector, and as he answered all questions, evaded nothing, was recommended to the board as being qualified as inspector, and the previous board had appointed him, and being a Grand Army man, we had no jurisdiction unless charges were brought and sustained.

Q. Being in — A. Being a citizen when he made his application, not evading any questions, having been appointed by the previous board, having been certified as being eligible, of course, we had no jurisdiction.

Mr. LEVENTRITT.—What were Mr. Redmund's politics?

The WITNESS.—From what I heard, Mr. Redmund was appointed as a Republican, by Mr. Murphy.

Mr. JOHNSON.—He was a Grand Army man?

The WITNESS.—He was a Grand Army man.

Q. Did you make any investigation, personally, as to the questions which were asked him by the civil service board? A. Yes; we had a full copy sent to the excise board, word for word, and that was turned over to the counsel.

Q. No question was asked him about his previous career? A. No, sir; nothing at all, whether he was a convict or not, that was not in the examination.

Q. Well, as president of the board of excise, feeling self-obligated to take the men who are sent to you by the State civil service examiners, in view of the facts shown in a case like this, a convicted criminal may escape without being known to the civil service examiners, do you think that is right as it stands? A. He was restored to full citizenship; he was pardoned by Governor Tilden.

Q. When was he pardoned by Governor Tilden, before or after he

served his term? A. I think before he served his term, if I remember aright.

Q. Did you look into that? A. Yes, sir.

Q. Could you suggest any improvement in the system of civil service examinations which would enable the facts of a man's antecedent life to be brought out? A. I could suggest that it might be done by having that inserted; it is inserted in the other civil service examinations, the competitive, but it is not in the non-competitive.

Senator FASSETT.—In the competitive examinations a man must disclose about his previous life, that is where merit has a chance to assert itself, in the competitive examination; in the non-competitive examination he is not compelled to disclose about his previous life? A. That is, as far as the non-competitive examinations are concerned in the excise matters; I do not know about the other part.

By Mr. BROWN:

Q. Mr. President, are you aware that in non-competitive examinations the applicant has to state what his occupations have been for six years prior to the date of his application; do you recall that fact?

A. Five years.

Q. Five years? A. Yes.

Q. So that the civil service commissioners are advised as to the occupation of the applicant for five years previous to his appointment?

A. Yes.

Mr. JOHNSON.—In other words, if a man has worked well and has behaved himself well he has proved himself to be a reputable citizen, and they do not go back of it, and they are right.

By Mr. IVINS:

Q. Have you yourself, since you have been president of the board, ever taken the initiative in looking around among your friends, and in the community, for men of fitness and ability to fill any of these places? A. No; I found since I have been in the board that I had my hands full in staying in the office attending to the routine business of the office; I had looked around among those in the board to find out who were competent clerks so as to retain them in the board.

Q. But there have been a great many men removed, have there not?

A. I do not think a great many under the circumstances; I think retaining forty per cent of the employes belonging to the other side who are not friendly to the successful party is doing pretty well.

Q. Sixty per cent were removed? A. I think in other cases one hundred per cent would be removed.

Q. Is it not a fact where peculiar skill and experience was necessary, such men were retained, such men as Mr. Gale, for instance —

The WITNESS.—And Mr. Hoyle.

Mr. IVINS.—And Mr. Hoyle —

The WITNESS.—And Mr. Gildersleeve, and Mr. Prime, and Mr. Cregg —

Mr. IVINS (continuing).—Where there has been peculiar experience, and where peculiar ability was required those men were retained?

A. Where the services of the board would not be benefited by resignations or removals, they have been retained; where other people could be got better competent, they were not retained.

Q. Is it not a fact that in the staff of inspectors more than sixty per cent were removed? A. I could not say.

Q. The inspectors are the only ones of your clerks who are systematically and habitually out in the districts, are they not? A. Some are out in the districts and some are doing routine work in the office.

Q. Well, the most active of all your subordinates in outdoor work are your inspectors, are they not? A. I think the people who do the most active work are indoor.

Q. I do not mean them; I mean the outdoor work is done by your inspectors? A. Oh, yes; entirely.

Q. Now, is there any man in your department who is more important to it and to the success of your administration than an inspector? A. No, sir; there isn't in one sense; and then, of course, there are people indoors; but of course the inspector is the keynote to the proper licensing of places.

Q. And the inspector is really the linchpin of the whole system? A. Certainly; there is no doubt about that.

Senator FASSETT.—That is, all the licensing depends upon the report of the inspector. A. Certainly.

Q. And you are really at the mercy of the inspectors? A. Without of our own knowledge we know something that we may order a reinspection.

Q. And is it not almost impracticable for you to have a system of check so that you would not be at the mercy of your inspectors? A. We could not change it unless we go over it ourselves, and that is impracticable.

Q. So it is almost impracticable to have a check? A. Certainly.

Q. And, if so impracticable, the inspector continues to be the real final fact in the system? A. There is no doubt about that.

Q. Now, more than sixty per cent of the inspectors were removed, were they not? A. I haven't figured that up; I could not say.

Q. Have you never during your term as commissioner or president, of your own notion, sought to find anyone whom you regarded as peculiarly qualified for the work of inspector? A. I don't think I have; no; I have not.

Q. You waited entirely for suggestions? A. And accepted people whom I thought were proper, and others whom I thought were not proper I did not accept.

Q. Did you ever take any suggestions from citizens disconnected with the organization other than Mr. Fish? A. Not to my knowledge.

Q. Did you ever take any suggestions from a Republican organization? A. No, sir; I do not think I have.

Q. Did you ever take any suggestions from the County Democracy organization? A. No; but there are county men in the office.

Q. They were retained because they were good men; were they not? A. That is what we retain them all for.

Q. Were they not retained because they were better people? A. No; some of them are inspectors.

Q. Do you know any of the men who have been retained who were county men or Republicans who have since been made members of the Tammany Hall organization? A. I don't know anything about that.

Senator FASSETT.— I understand that Mr. Meakim is not a member of Tammany Hall.

Mr. JOHNSON.— There is only one who is.

Senator FASSETT.— Which one is that?

Mr. JOHNSON.— Commissioner Fitzpatrick.

Q. Even if you had been a Tammany Hall man could you have done anything more for Tammany Hall men than you have done? A. Yes, sir.

Q. What could you have done? A. I have refused to remove men to make room for Tammany men.

Q. Who have you refused to remove although you know that the place was wanted by Tammany Hall men? A. Well, I don't know directly, but I know of places that people would have wanted; now, I will name Mr. Gildersleeve.

Q. You mean places that would have been filled by men who were perfectly willing to take them? A. Yes, sir.

Q. Mr. Gale was one of the County Democracy men who was retained?

Mr. GALE.— No, sir; I deny it.

Senator FASSETT.— Mr. Gale testified that he joined Tammany Hall on the recommendation of Mr. Grace.



Q. Did you know that Mr. Gale had joined Tammany Hall on the recommendation of Mr. Grace prior to your assurance that he would be retained? A. No, sir.

Q. Do you know that Mr. Cart had become a Tammany Hall man afterwards? A. No, sir.

Q. Then there are a great many details that you have not looked into? A. In the political part there are plenty of details that I know nothing about.

Q. Has anyone called your attention in any way, directly or indirectly, to charges of interference by the inspectors in matters political? A. There was one charge made, and I sent for the inspector and told the inspector if I heard again that he interfered in any way I would prefer charges against him and ask for his removal.

Q. What inspector was that? A. Julius Simon.

Q. What district was he allotted to? A. He was allotted to the Eighth precinct, but I think this act was over in the Eleventh precinct.

Q. What Assembly district was that in? A. The Tenth.

Q. What Senate district was that in? A. You mean who ran in the district?

Q. Yes, the number of the district, or who is the present Senator? A. That I could not tell you.

Commissioner FITZPATRICK.—It is the Eighth Assembly district; it is the Seventh Senatorial district.

Q. Is that the one that Commissioner Fitzpatrick lived in?

Commissioner FITZPATRICK.—No, sir; it is the one that John J. O'Brien lived in.

Q. Have you ever instructed the inspectors not to interfere in politics? A. I think I have, but not in a general order promulgated.

Q. Have you ever inquired whether or not the inspectors were actually active politicians as members of political organizations? A. No, sir; I have not.

Q. Do you know whether or not the inspectors are usually allotted to the precincts in which they as politicians also have influence? A. I know in some cases they have been, and in some cases we have not allowed it.

Q. Now, in what cases are they so allotted? A. I will have to refresh my memory on that; I have been away from the office a month, and, of course, on that question I would have to refresh my memory by the records.

Q. In what particular cases have you disallowed it? A. I would have to refresh my memory on that.



Q. Is your memory sufficiently clear to enable you to state in what proportion of cases you permitted it? A. I think there are very few cases anyway.

By Senator FASSETT:

Q. Well, why isn't it a proper thing; why shouldn't they be assigned to those districts where they have political influence? A. Well, from a political standpoint, I suppose that is all right, but may be from the standpoint of the efficiency of the officer, it might not be right.

Q. Why not? A. Well, if they are among their friends who are liquor dealers, they may overlook some things and allow them to do things that is an infringement on the law, without reporting them.

By Senator FASSETT:

Q. If men have already been licensed, can they show favors to them? A. Yes, sir.

Q. In what way? A. For instance, a man might sell out his store, a man who is already licensed, to John Jones, and the inspector will report that to the board if he does his duty, and the man will have to get a new license.

Q. And defraud the city out of just so much? A. The charity fund, because the money does not go to the city.

Q. Then it is possible for these inspectors to exercise quite a good deal of power in the granting or withholding of favors? A. Certainly; that is an open secret.

Q. Is there much pressure for this office of inspector; that is, are there a great many applicants and recommendations for the office; are there more than there are offices? A. No; I don't think so.

Q. It is not a very desirable berth? A. I should not think so, at the salary; it seems they are undesirable, that is, if a man does his duty properly.

Q. You are never at a loss for somebody to appoint; there are always two or three ready to be appointed? A. I know of two now willing to be appointed; I don't know of any others.

By Mr. IVINS:

Q. Have you ever appointed anybody on the application of Judge Steckler? A. Not Judge Steckler.

Q. Charles Steckler, then? A. Yes, sir.

Q. Who is Charles Steckler? A. He is a Tammany Hall leader in the tenth district, I believe.

Q. Do you know how many members of the Steckler Association are inspectors of the excise board? A. I don't know; I can tell you how many people have been appointed through Mr. Steckler, but what they belong to, I don't know.

Q. Now, who have you appointed through Mr. Steckler? A. Mr. David Hirsch.

Q. Who did you remove to make a place for Mr. Hirsch? A. Transferred Mr. Gildersleeve.

Q. Did you make any examination about Mr. Hirsch's qualifications for office, yourself, before you appointed him? A. Only that Mr. Steckler recommended him, and that he went through the civil service examination.

Q. Did you see and talk with Mr. Hirsch before you appointed him? A. I saw Mr. Hirsch; I don't know what I said to him.

Q. Does Mr. Hirsch now do the work that Mr. Gildersleeve used to do? A. I suppose he does.

Q. He testified that he did not? A. Let me tell you there is a great deal done in the office that, of course, I can not keep track of and know of my own personal knowledge what is done; I know that that department is doing just as effective work as it ever has done.

Senator FASSETT.—But whether he has done the work that Mr. Gildersleeve did, you do not know?

The WITNESS.—I do not know that.

Q. Is Mr. Hirsch a good man, whose qualifications are such that they could be taken as a fair average standard of the qualifications of people for appointment to office in your board?

Senator McNAUGHTON.—I think that is hardly a fair question.

Mr. IVINS.—I think it is. Mr. Hirsch has been here and we have seen him, and he has been compared with Mr. Gildersleeve.

Q. Well, is Mr. Hirsch a man whose qualifications are above or below the standard of qualifications required in your board? A. I have heard of no complaints being made against him; Mr. Hirsch, I suppose, does his work properly because we have had no complaints against him.

Q. Have you ever looked into any other reason except as to whether he did his work properly? A. I have sent Mr. Hirsch out and Mr. Hirsch has done his work properly.

Q. Have you ever inquired as to the amount of work Mr. Hirsch does and when and how he does it? A. I know that the work is done by the department, by the bureau, and Mr. Hirsch is in the bureau.

Q. Have you ever inquired whether Mr. Hirsch is doing the work that Mr. Gildersleeve used to do? A. No.

Q. Do you, as president, know whether he does or not? A. I take it for granted that he is doing his duty, as there are no complaints against him.

Q. Do you know what, in fact, the men are doing? A. Yes, sir.

Q. What men have you watched in that way so that you can tell what they are doing? A. Well, I watched Mr. Rothchild, the engrossing clerk, Mr. Hoyle, Mr. Prime, Mr. Craig, Mr. Gildersleeve, Mr. Hirsch, for instance.

Q. How did you watch Mr. Hirsch, for instance? A. By going out and finding out what complaints have been brought in, and seeing whether they were being properly attended to.

Q. Who else have you appointed for Mr. Steckler? A. Samuel Rauch, inspector.

Mr. JOHNSON.—If you were to watch the detailed work of each inspector, you could do nothing else, could you?

THE WITNESS.—I would want a horse and wagon to do that, as they cover twenty miles of the city.

Senator FASSETT.—Mr. Hirsch is an outside inspector, is he not? A. Mr. Hirsch is in what we call the complaint bureau.

Q. His work is in the office, is it? A. No; his work is outside.

Mr. IVINS.—Mr. Hirsch testified: "Q. Then it takes all of your time to receive the complaints, and divide them between Mr. Gildersleeve and the other gentleman and yourself? A. Yes, sir. Q. When do you investigate the complaints that you take for yourself? A. I go after 4 o'clock, after business hours. Q. Now, do you think you have investigated such complaints as you have taken for yourself, and where you have made the investigation after business hours, as many as one a day? A. Yes, sir; many times. Q. These complaints are only in cases where licenses have been issued and a complaint is made against the licensee? A. No, sir; they are not those complaints. Q. What complaints are they? A. Complaints we receive from the public, or saloons change hands, or we hear of a grocery store that is selling without a license, or a drug store. Q. Are these all of the duties of the general inspector? A. That is all I know of. Q. Are you responsible in any way for the work of the other forty-nine inspectors? A. No, sir. Q. Do you examine the reports of the other forty-nine inspectors? A. No, sir. Q. Do you assign the other forty-nine inspectors to their precincts? A. No, sir. Q. Do you exercise any direction or control over them at all? A. No, sir. Q. You get \$1,800 a year? A. Yes, sir. Q. Mr. Gildersleeve does all the work that he used to do as general inspector? A. He don't do it all; he gets it from me; he don't do all the work. Q. That he used to do as general inspector? A. He was general inspector

before I got there. Q. Was the work of the general inspector during that time different from the work of the general inspector now, so far as you know? A. Not that I know of."

Q. Now, in order that my statement of what he testified to may be corrected, in case there was any error in it, I read what was said by Mr. Hirsch; is that an intelligible statement of his duties? A. Mr. Hirsch has testified to it—

Mr. LEVENTRITT.—Didn't he testify that he made special investigations outside of that?

Mr. IVINS.—He said he made one or two.

Mr. LEVENTRITT.—Give him the benefit of that testimony.

Mr. IVINS.—I have it here. He said he goes out after hours. "Do you remember any particular case where you have made an investigation as to the change of ownership? A. Yes, sir. Q. Just name it? A. One—176 Allen street. Q. That is enough; now, who was the former licensee in that case? A. I forget the name now; Mr. Krause has taken out a license there; I guess it is in the book there. Q. Krause has taken out a license there? A. Yes, sir. Q. He was the new licensee? A. Yes, sir. Q. Was there a bill of sale from the old licensee from Krause? A. I didn't see any bill of sale. Q. Never saw any? A. No, sir. Q. What steps did you take to find out whether Krause was the bona fide purchaser of the bill of sale? A. I went there and found that the former owner was not the proprietor of that place. Q. Who did you find that out from? A. The bartender; and then the bartender told me that the party has moved away, and he don't know where he is; and I informed Krause to come and take his license out; he immediately came—the next day—and took his license. Q. Did you take any steps to find out whether Mr. Krause was the owner? A. Mr. Krause told me he was. Q. Did you take any steps other than that? A. No, sir; that was sufficient for me. Q. How long have you known Mr. Krause? A. I do not know him at all."

Q. Is that, in your judgment, a sufficient investigation? A. Well, he could have been more accurate.

Q. And that is the work of your general inspector? A. Well, I remember one case of a general inspector where a license was revoked on his inspection.

Q. [Counsel continues reading.] "How many cases of this kind have you investigated," etc.; now, has the general inspector never received any more instructions that might be inferred from his testimony here as to his specific duties? A. Well, of course, his duties are, that when the complaint comes, to thoroughly investigate it.



Q. I have read you one instance of what he called an investigation; do you regard that as thorough? A. No; I think it ought to be more thorough than that.

Q. Would that have been satisfactory to you had you known that that was all that he did? A. No, sir; it would not.

Q. Do you take any steps whatever to find out how thorough these investigations are? A. There are thousands and thousands of cases and some one or two cases may slip through where the investigation of the commissioner is not as thorough, may be as it ought to be.

By Senator FASSETT:

Q. I understood the counsel's question to be generally whether you depend on the report of your general inspector ordinarily? A. Well, we have to the same as the other inspectors.

Q. Unless something extraordinary develops to call your attention to the case, you do not go behind his report? A. No, sir; we are not expected to.

By Mr. JOHNSON:

Q. In other words, you rely upon the fact, as I understand it, that the inspector does his duty? A. Certainly.

By Mr. IVINS:

Q. The general staff of inspectors get \$1,200 per annum? A. Yes, sir.

Q. The general inspector, so called, gets \$1,800, does he not? A. Yes, sir.

Q. Wherein does the duty of the so-called general inspector who gets \$600 a year more than the other inspectors differ from the duty of the other inspectors? A. Well, the other inspectors' duties are confined to a certain limit and the general inspector is all over the city.

Q. You hold the general inspector responsible for the whole inspection staff? A. We hold the general inspector responsible for any dereliction of duty if he had received a complaint that the persons licensed were not conducting the business properly.

Senator FASSETT.—He is not the chief inspector.

Mr. IVINS.—I understand that, but I want to find out what the general inspector is as distinguished from the other inspectors and what he is as distinguished from the chief inspector.

The WITNESS.—The chief inspector has charge of the district inspectors and the general inspector has charge of all the complaints.

Q. Has the general inspector authority to send persons out to



investigate the complaints? A. He has authority through the secretary.

Q. He has to go to the secretary in the first instance, however?

A. That is outside of his own department.

Q. Is he expected also to make personal investigations whenever he sees fit in regard to complaints? A. He ought to; yes, sir.

Q. Now, suppose the general inspector were to say that he had investigated a certain matter and the complaint was not seriously pressed, would that end it? A. It depends altogether what the complaint was, whether it was a complaint of the ordinary nature or not; just the same as any other inspectors.

Q. Then his duties really are very serious? A. We are at his mercy just the same as we are at the mercy of the other inspectors.

Q. But he is the man who in the first instance has to pass on the great body of complaints? A. Passes on complaints; he does not pass on the complaints that we receive from the police department or complaints of that kind; he passes on the complaints we receive through letters; the complaints received through the police department, or for violation of the excise law in keeping open or anything like that are turned over to the board, and the board sets it down for a hearing.

Q. Are there many complaints made through letters? A. I suppose a great many; there are a great many received through letters that the secretary turns over to that bureau without handing to the commissioner.

Q. Have you any idea how many there are? A. No.

Q. Do you suppose there are a hundred a day? A. I could not tell you.

Q. Or ten a day? A. I could not say; I do not want to say anything I do not know positive, because I am under oath.

Q. In case a complaint came by letter and it was turned over to Hirsch, and Hirsch were to examine it and report that in his judgment there was nothing in it, would that end it? A. That would depend upon the style of the complaint.

Q. Who would there be beside Mr. Hirsch to determine what the seriousness and style of the complaint was? A. Well, the complaints are generally turned over to that bureau; if an inspector makes a report that there is nothing in it, and he has thoroughly investigated it, as I said before, we are at his mercy the same as the other.

By Senator FASSETT:

Q. Hirsch gets all his mail himself? A. No, sir; it comes to the secretary.

By Mr. IVINS:

Q. The secretary turns it over to Hirsch? A. Yes, sir.

Q. So that Hirsch is really the intermediary between the department and all persons complaining by mail? A. It goes through his hand as chief of the bureau.

Q. And it is for Mr. Hirsch to investigate these complaints and report either for or against the complainants? A. No; Mr. Gildersleeve is there to assist him.

Q. Is he responsible for Mr. Gildersleeve's work? A. He ought to be, certainly.

Q. Does he supervise the manner in which Mr. Gildersleeve does his work? A. No, sir; but the reports of Mr. Gildersleeve are made through him.

Q. Who supervises him? A. Who?

Q. Mr. Hirsch? A. The secretary.

Q. Do you know to what extent the secretary supervises Mr. Hirsch? A. I suppose to the extent that when these complaints are handed he sees that each complaint has a report made on it.

A. Then this general inspector who is generally responsible for all complaints of this particular class and at whose mercy you are, was appointed by you on the application of Mr. Charles Steckler without any further examination or investigation, so far as you were personally concerned, into his antecedents? A. No; except his antecedents for the past five years; he stated what his business was.

By Mr. BROWN:

Q. These general inspectors you speak of, their duty is to investigate complaints for violation of the excise law when in the ordinary course of mail, or otherwise, the complaints are made to the board? A. Yes, sir.

Q. Those are handed by Mr. Bishop to Mr. Hirsch? A. Yes, sir.

Q. Is Mr. Van Hoven an inspector in that department also? A. Yes, sir.

Q. And Mr. Pierson? A. Yes, sir.

Q. After the complaints have been investigated by one or two of those I have mentioned, what is done with them; are they not returned to the secretary? A. That is just what I told Mr. Ivins.

Q. And after that placed before the commissioners for investigation and determination? A. Certainly.

Q. And there is not a record kept of all these transactions? A. Certainly.

Q. In some of the books of the department; now will you state, commissioner, how many books altogether are kept in the department, in the administrative department of the board? A. I think Mr. Bishop counted those up.

Mr. BISHOP. — Five hundred and fifty.

The WITNESS. — I have to rely upon Mr. Bishop refreshing my memory on that.

Q. Five hundred and fifty with maps, books and other records outside of the ordinary applications which are in pamphlet form or in the legal form of books; now, after the complaints are returned or investigated by these general inspectors if anything appeared requiring the action of the commissioners, then the complaints are made and the parties notified? A. Yes, sir.

Q. If the examination satisfies you that they ought not to be pursued further they are discharged? A. Discharged.

Q. Is not that the usual course of conduct? A. That is what I told Mr. Ivins.

Q. And the inspectors are obliged, with the exception of the three application clerks, to keep all the records I have mentioned in the book that I have mentioned, in addition to their other duties? A. Yes, sir.

By Mr. IVINS:

Q. Mr. Rauch was also appointed on the same application; did you make any examination as to his qualifications? A. The same as the other.

Q. Have you ever made any investigation since he has been there as to the manner in which he has performed his duty? A. I suppose he has performed his duty or the chief would make the report.

Q. Then if he has not would you hold the chief responsible? A. Certainly.

Q. Now suppose he has not properly performed his duty and the chief has not discovered it, what is the measure of the chief's responsibility? A. If he has not performed it and the chief has not discovered it?

Q. And not called your attention to it so that you are continued to be left at Rauch's mercy? A. If the chief knows it and does not report it, he is liable.

Q. Is it the chief's duty to know it? A. He ought to know it; he keeps a report of all applications and all inspections made.

Q. Did you know that he had been a deputy collector under Judge Deidrich? A. I think I heard that; I won't say positive.

Q. Did you know that he had been the official floor manager of the ball room known as Webster's Hall? A. I did not.

Q. Did you know that he had been a clerk in the postoffice? A. I did not?

Q. Now, I shall read from his testimony what I have already read from his testimony to one or two other commissioners, and the stenographers need not take it here; it is contained on pages 1137, 1138, 1139, 1140 and 1143. [Mr. Ivins here read the testimony referred to.] Now, Commissioner Meakim, do you regard that a sufficient investigation to justify an inspector in truthfully saying: "Upon diligent inquiry I find the moral character and general reputation of the applicant Murphy to be good?" A. No; if he did not see him and did not know anything about him.

Q. Well, you heard what he testified to; do you regard that as a sufficient and proper investigation? A. No, sir.

[Mr. Ivins continues reading from pages referred to.]

Q. You regard that as a sufficient investigation? A. Well, now, as regards Mr. Blank's place, I personally inspected that place myself.

Q. Well, that was not the question; we will take that up in a minute; do you regard that as a sufficient investigation, assuming that you had not personally taken it up? A. Well, not if I had not known of my own knowledge.

Q. Would you regard that as a sufficient examination? A. Well, I think he — if he testified there that he had known them for twenty-five years —

Q. That he had lived in the neighborhood for twenty-five years? A. Been there for twenty-five years and the man had been in business there, I should think, knowing a man for twenty-five years, he ought to be able to make a report.

Q. You made an investigation of that place yourself? A. I did.

Q. How did you come to make an investigation of it? A. I simply made an investigation because I am around Thirteenth street nearly every night, and I was watching the Golden Horn, across the street, and I says, "I might just slip into Blank's and see what it looks like, because it may be of use for me later on; there may be a time when they will raise some objection because Blank's has been licensed."

Q. Did anybody call your attention to it particularly before you went there? A. No, sir; nobody.

Q. "Did you examine William Lyth's place, 252 West Eighteenth street?" [Page 1142 — Mr. Ivins reads to and including "on a new



party; yes, sir." Page 1144.] Now, do you regard that as a sufficient investigation? A. No; I think it ought to be more rigid.

Q. Do you regard that as evidence of the fact that he understands his duties as an inspector? A. I think that examination ought to be more rigid.

Q. He asked no questions of anybody and made no attempt whatever to find out anything about the antecedents of the man, and that, he says, is the way in which he conducts an investigation in regard to a new applicant. A. There is another case where we are at the mercy of the inspector, as I have said before.

Q. Would you be so much at the mercy of the inspector if the inspector was specifically instructed that that was not an investigation? A. Well, that is only — that has come out now; of course, when a report comes in and they answer all those, we take it for granted that they do observe due diligence.

Q. Is there any reason why you could not find out those things as well as this committee? A. Well, you are looking for everything that is going to implicate the board, and the board are looking for the good government of it, and when a man takes an oath to do his duty faithfully and he makes a report that he has used diligent service, we take it for granted that he has; if we started out on each individual case ourselves we will grant fifty licenses a year, if we go out to make investigation ourselves after the inspector gets through.

MR. IVINS.—In one regard you are entirely wrong. We are not looking for things to implicate the board. Quite at hap-hazard I picked out a list of five or six inspectors and sent for them and had their last five or six reports brought in. These are three of their reports, of Mr. John Rauch, the only three which were read. The first, you say, was not a proper inspection; the second, you say, in view of the fact that he had knowledge for twenty-five years, was a proper inspection; the third you say was not a proper inspection. We did not pick Mr. Rauch out; we did not pick out the cases. It was simply the first thing we touched, and it was so with regard to all the other inspectors.

By Senator FASSETT:

Q. Well, let me ask, perhaps — would this be a fair question: Have you any reason to believe that these cases read by Mr. Ivins are not fair illustrations of the manner in which the inspections are made? A. Well, no; I don't know anything about that; we take up each case individually, and the inspector is sworn.

Q. And depend on the inspector's report? A. Certainly; he is sworn to his report; his report is sworn to.

Q. I ask you if you know of any facts that lead you to think that by some fate we had selected or found or chanced to find flagrant instances of indifference to duty? A. No; I don't think you picked them out.

Q. No reason to suppose these are not fair reports? A. No; I don't charge that at all.

By Judge BROWN:

Q. Are you not largely guided, in determining whethèr the proper inspection has been made, by the records of the office, where parties have been licensed by the commissioners for a long time prior to the time of the application? A. Certainly, and that is a part of his inspection.

Q. And where a man had been engaged in the liquor business for a number of years, having a license from the board, and no complaints made against him, it is fair evidence to you that he is possessed of a moral character sufficiently to entitle him to continue in business? A. Certainly.

Q. And the inspection aids you in determining whether he is proper to continue to have a license for the business again; is it not so? A. Certainly it does.

Q. And do you largely rest upon the fact that a man's character had not been impeached, that the presumption is he continues to have a good moral character? A. Yes, sir.

By Mr. IVINS:

Q. Your attention has been called to section 12 of the statute, heretofore?

Judge BROWN.— You call his attention to it now.

The WITNESS.— Read it.

Mr. Ivins reads as follows: "The board of excise in any city, town or village shall have the power to grant license to any person or persons of good moral character who shall be approved by them."

The WITNESS.— Yes, sir.

Q. Do you understand that your duty is sufficiently performed, under the law, by taking it for granted that a man has a good moral character, unless his character is impeached? A. Well, the only way that we can ascertain a man's good moral character, is through our employes who are authorized by law to do it, and if they report a man of good moral character, and we don't know anything to the contrary, of course, we naturally take it for granted it is so.

Q. Do you think that the statute is sufficiently complied with by the application on your part of a rule that a man is assumed to be

innocent until he is proved guilty? A. Well, I think in a great many cases a man is innocent until he is proved guilty.

Q. That is not an answer to my question? A. I would have to answer that this way, that a great many times people have been arrested in the excise business and I should take it for granted they were innocent until they were proved guilty; there might be other cases that people have been repeatedly arrested for different things, I might take a different view; each case would stand on its own bottom when it came up; I have no general rule for every case.

By Judge BROWN:

Q. You don't start out with the presumption that a man is of bad moral character? A. No.

By Mr. IVINS:

Q. Do you start out with the assumption that that law necessitates investigation on your part of the question of character? A. By the inspector; yes, sir.

Senator FASSETT.— Well, he is your agent.

Q. It says "the board of excise—" A. Well, through our agent.

Q. —"shall grant—" A. Well, to be sure, we grant upon the recommendation of our authorized agents, the inspectors.

Q. Now, do you, as a commissioner, hold it a sufficient compliance with the statute to regard a man as being of good moral character provided you know nothing about him? A. If the inspector makes such report.

Q. No; no; no? A. I know, but —

Senator FASSETT.— As an abstract proposition.

Q. The abstract proposition; we will get to the inspector's report later? A. Well, I think if I know nothing against a man, I would naturally say that he was of good moral character, if I don't know anything to the contrary; I would give him that benefit anyhow.

Q. Well, have the inspectors been instructed to give the benefit in the same way? A. I don't know the — the inspectors have been instructed to find out a man's moral character; I don't think they have been instructed how to find it out; I suppose their common sense will —

Q. What instructions have been given to the inspectors as to the extent to which they shall prosecute their inquiries concerning character? A. I don't know as anything only their own common sense.

By Senator FASSETT:

Q. Well, Mr. Meakim, your report that the inspectors furnish to the commission is a blank; it says, in response to one question, "on

diligent inquiry I find his moral character to be blank," and that they fill out "good, bad or indifferent," with remarks as they please; now, have your inspectors ever been instructed as to how much effort should constitute diligent inquiry? A. No; I think that has been left to them; I think they have been — they are men of average intelligence, and if they swear they have made diligent inquiry, of course —

Q. Apart from their volunteering to insert in that blank a description of what they have done in the way of inquiry, you have to depend on their own judgment of the meaning of that phrase "diligent inquiry?" A. Certainly.

Q. In other words, you are absolutely dependent on the integrity and the capacity and the fidelity of your inspectors, are you not? A. Certainly, on that report and also on the diagram they put on the back of the report, as to churches and schools and things of that kind.

Q. And one of the most important things to determine in granting a license is whether the applicant be of good moral character? A. Certainly, that ought to be.

Q. That is the first, is it not? A. Certainly, that is the first thing.

Q. It is the paramount issue in the statute, is it not? A. Certainly.

Q. Are you convinced that the present system results in a thorough inquiry as to the moral character? A. I think it could be improved on.

Q. Think it could be improved? A. Yes, sir.

Q. Can you suggest in what way the present method could be improved? A. Well, I think it could be improved on by making the position of inspector a competitive one and give it more salary so that a man would have more to work for, and make it that he could not be removed except upon charges; competitive examination.

Q. Making the inspector a competitive examination? A. Competitive examination.

Q. Then raise the salary? A. Raise the system all around.

Q. Well, with the inspectors as they are appointed in the present way, would it be any improvement to require that they report not "upon diligent inquiry I find the moral character to be good," but to report actually what inquiries they did make? A. Yes; who they inquired of.

Q. And whom they inquired of? A. Yes, sir.

Q. Would that be a good change? A. Certainly.

Q. There is nothing to prevent your commission making that change, is there? A. No, sir.

Q. That is open to a change by your own motion? A. Yes; and the commission are only too happy, if anything could be brought out here by which it can be remedied, to act upon it.



Q. I understood Commissioner Fitzpatrick and Commissioner Koch both to testify that they regarded that substantially the present system, so far as this report on character was concerned, was a farce; a matter of form, rather, I think, was their word; do you agree with that opinion? A. It ought not to be.

Q. It ought not to be, but practically is. A. From the way that the board are at the mercy of the inspectors and the way they report, as has been shown, without having seen the parties at all, of course, it is.

Q. It is, is it not? A. There is no doubt about that.

Senator FASSETT.—I think that has been the tendency of Mr. Ivins' examination, to illustrate that general statement by specific instances.

The WITNESS.—Whatever can be improved upon by discussion, the board are only too happy to take advantage of it.

By Mr. IVINS:

Q. The only limitation in the statute, Mr. Commissioner, appears to be that relative to moral character; if a person has good moral character, there is nothing to prohibit his getting a license; that is as you understand it? A. Well, good moral character?

Q. Yes. A. Well, of course, there may be some other — of course, a man to have a good moral character, of course, certainly he must be a good man.

Q. In those to whom licenses may be granted, the only persons who are excluded are those who have not good moral character, is it not? A. Yes, sir.

Q. So that the one crucial point in the whole business is good moral character? A. Good moral character.

Q. And that is in the hands of the inspectors? A. That is in the hands of the inspectors.

Q. If an inspector reports he has made diligent inquiry and finds a man to have good moral character, although, as a matter of fact, he knows nothing about his character, he has failed in his duty, has he not? A. Yes, sir.

Q. The result of which is that you have granted a license to somebody about whose character you know nothing? A. Certainly upon the representation of the inspector.

Q. That action then of the inspector might possibly make you amenable under the statute, might it not, unless you hold him responsible for it?

Judge BROWN.—I do not think that that is a fair view of the law as it at present exists, because under the act of 1857 it was more com-

prehensive; under the old act they were to be satisfied of that fact; under the present act under which they are acting the recitals of the statute simply say that the party entitled shall have a good moral character and the presumption of law is that a man is of good moral character until the contrary appears, and if there is any investigation it is for the purpose of advising the commissioners as to the character and standing of the person making the application for the license.

By Senator FASSETT:

Q. Mr. Meakim, how many inspectors have you, altogether? A. Counting general and all?

Q. Yes. A. I should think somewhere around sixty-five.

Q. About sixty-five? A. I should think.

Q. Do these all receive the same salary? A. No; there is forty-nine receive \$1,200; I think there is twelve receive \$1,500, and there is one or two general inspectors that receive \$1,800.

Q. All the sixty-five have to pass a civil service examination? A. civil service examination.

Q. But it is a non-competitive examination? A. We have two competitive examination places in the office, and the rest are not competitive that have to pass an examination.

Q. What are these twelve inspectors that get \$1,500? A. Well, that was handed down to us by our predecessors and, of course, the inspectors were kept right in work.

Q. What kind of work do they do? A. I don't know that they do any different work from the others.

Q. Do they do outside inspection work? A. Outside inspection; they are entitled "special inspectors."

Q. Don't they keep statistics in the office? A. Some make inspections and are detailed as clerks and some make inspections without being detailed as clerks.

Q. If they do not do any different work from the other forty-nine inspectors, why do they get \$1,500 a year? A. Of course, there are some of them who, besides making inspections, do detailed work in the office, which, of course, makes them valuable.

Q. How many of them? A. Four or five.

Q. Those gentlemen that you mention, four or five, are actually clerks, are they not; keeping books? A. With the exception of being inspectors and doing an inspecting work; they do act.

Q. Do you mean they do actual inspection when they are called upon? A. When they are called upon.

Q. But their regular duties are not in that direction? A. There is more of their duties in the office than that, assuming they do enough inspecting to be inspectors.

Q. The work which these gentlemen are engaged in doing is of a nature in preparation for which they generally require a competitive examination, is it not? A. Well, I do not know much about that; of course, I only know about the civil service as it pertains to our office; I suppose, in a regular clerkship, without an inspection, they would.

Q. So that when men are made inspectors, as the result of a non-competitive examination, and detailed to do clerical work where the civil service law requires a competitive examination shall be passed, that is *pro tanto*, is it not, an evasion of the civil service law? A. They are inspectors but we utilize them in the office.

Judge BROWN.—Senator Fassett, prior to 1888 there was no law with reference to what would be an aid given to excise commissioners; in 1888 a law was passed allowing the commissioners to appoint three clerks, and such other aid as they might require, no matter how it might be named, and under the present statute, this board—it appears to be the only board that comes under the State law; we are a department of the State, not of the city, and the clerks or inspectors, or whatever they may be named, may be assigned to any duty under the present board, so that it is not an evasion of the law in that sense.

Senator FASSETT.—Certainly; so that if it were not that these inspectors were detailed to do clerical work and the board had to have clerks which would be called clerks, they would not fall under the classification of schedule "C," would they.

Judge BROWN.—They would not fall under that schedule because they were not designated as such, and there is no law appointing them or giving them power of appointment.

By Senator FASSETT:

Q. So long then, Mr. Meakim, as the inspectors are designated as excise inspectors, they can be appointed after a non-competitive examination? A. Well, they are detailed as the clerks; they are not appointed as clerks.

Q. They are appointed as excise inspectors? A. As inspectors.

Senator FASSETT.—And that is one of the classifications of schedule "C."

Judge BROWN.—Three application clerks.

Mr. IVINS.—There are three clerks which have non-competitive examination.

Judge BROWN.—Yes; and that is all we are allowed to appoint.

Mr. IVINS. — There are three clerks which are non-competitive examinations, and they are made non-competitive by the State civil service commission.

Senator FASSETT. — On the application of the board.

Mr. IVINS. — On the application of the board, Mr. Gale ?

Mr. GALE. — Yes, sir.

Judge BROWN. — But not of this board ?

Mr. IVINS. — But of the board of excise.

By Senator FASSETT:

Q. But if these gentlemen who are detailed to do clerical work were called under name — for instance, were called excise clerks, and so classified, they would have to submit to a competitive examination, would they not ? A. If they didn't do any inspecting at all.

Q. Never mind what work they do; if they were called clerks ? A. Well, if they were called clerks; but they are inspectors.

Q. Is it not true that employes in the public departments that are known as clerks, have to submit to a competitive examination ? A. Yes.

Judge BROWN. — In some instances.

By Mr. IVINS:

Q. Mr. Meakim, did you vote to license the Sixth Avenue Hotel ? A. I wasn't present; I was home sick at the time that was licensed.

Q. Did you ever have an opportunity to protest against the licensing of the hotel ? A. I had not; I intended to originally protest against that and was taken sick and was away from the office nearly six weeks, and having lost track, the license was granted in my absence.

Q. Did you vote to license Walsh's place on the corner of Fourth street and Thompson ? A. I don't think I did; I did not.

Q. Vote against it ? A. I don't know whether I voted against it or was not present when it was voted; I didn't vote for it.

Q. Now, you know what the place is; don't you ? A. The place is on the southeast corner of Thompson and Fourth ?

Q. Yes. A. No, sir; I did not.

Q. Did you vote to license Gumbossy's ? A. I did not.

Q. Why didn't you vote to license that ? A. I don't think I was present at the time it was voted; I think that was when I was home sick.

Q. Did you vote to license the Compton House ? A. I did not, sir; I called for a police report on that.

Q. Did you refuse to vote for that ? A. I don't think I was present when the vote was taken ; I would have voted against it had I been present.



Q. Did you vote to license the place known as the Mart? A. I did not, sir.

Q. Did you vote against that? A. I did.

Q. You were present at that time? A. I was present at that time.

Q. What was the reason that you refused to vote for that? A. Well, I didn't like the general appearance of the—the general character of the place.

Q. Did you like the character of the applicant? A. The applicant I did not know much about; I didn't take that into consideration, as I had made up my mind not to vote for the place at all.

Q. Do you know who the applicant in that case was? A. I—the applicant—

Q. Did you look him up? A. Well, I did not; a man named Bush was the applicant.

Q. Did you make any inquiries about his character? A. I did not; but I was not going to vote for the place; I was going to vote against the place; I thought it was unnecessary to make any.

Q. Did you then know that he had been connected in business with the rather famous or notorious Billy McGlory? A. I don't think he was; I don't think Mr. Bush was.

Q. Didn't you ever hear that he had been? A. No, sir.

Q. Did you raise the question of character at all in that case? A. I did not raise it because I was not going to vote for the place; I didn't like the place, and I didn't care who opened the place, I wouldn't vote for it; I thought the place ought not to be licensed.

Q. Was the place open at that time? A. Which time; at the time I voted?

Q. At the time this last license was issued? A. Yes; I think it was.

By Senator FASSETT:

Q. Mr. Meakim, your theory seems to be that a place gets a character same as a man? A. In my opinion there are places in the city that have got a character that they oughtn't to be re-licensed.

By Mr. IVINS:

Q. Did you vote to re-license Theiss'? A. I did not.

Q. Did you vote against it? A. I did.

Q. On that same ground? A. I voted against Theiss' on the ground that the place had been run down, and I thought the class of people that went there, that nobody could afford to buy that place out, and to make it a success, and consequently I had no faith in the transfer of the license to Mr. Berthold.

By Mr. JOHNSON:

Q. Knew nothing against the character of the new applicant? A. No, sir; not at all; nothing; on the other hand, he came very highly recommended.

By Mr. IVINS:

Q. And even though the applicant comes highly recommended and is to your certain knowledge a man of good reputation, you, in certain cases, would refuse to license him to sell liquors at a particular place? A. I would refuse the place.

Q. You think that the place is as important an element in the licensing as the individual? A. I think when a place has a set of customers that to my idea no new man can turn away, and a license has been revoked or refused on that ground, I don't think the place ought to be licensed.

Q. As an excise commissioner which, in your judgment, would be the better way; to license the places or to license the individuals?

A. License them both; I would punish them both; I would license the place and not permit it to be licensed again, and I should license the person besides, so that he couldn't hold license three years.

Q. You think if that were done it would make the inspection easier and more reliable? A. I think the landlords would be more particular about who they rented their places to, and I think then you could get at the character of a man because you would know who he was.

Q. How far do you, as an excise commissioner, hold yourself responsible under the law, for the general supervision and surveillance of the liquor traffic of the city? A. Well, I hold that any complaint brought to the board for a breakage of the excise law, the complaint must be entertained and looked into.

Q. You think that the law imposes any specific or affirmative duty on your board to pursue a series of continuous inspections or investigations to see how the licensees are using their license? A. I have often—I have made that suggestion, and when I went away it was on my mind to bring it up before, when I came back, to make our inspectors responsible by making them make inspections of all the licensed places within their jurisdiction, and hold them responsible for not reporting to the board the change of ownership.

Q. That is one point; now, suppose that a man were to be arrested by the police four or five or six times for selling to minors, let us say, and the inspector of that precinct had never found out that that practice was being carried on; would you, in the same way, believe it admissible to hold the inspector responsible for that sort of thing.

A. I should hold an inspector responsible within hours of any dereliction or any breakage of excise law that would come within his knowledge or ought to come within his knowledge.

Q. If that were his duty and he were to be held so responsible but he was confined to his particular hours, is there any reason why the staff should not be sufficiently increased and make it cover all hours, so that the real ultimate surveillance of the system should be in your hands? A. I think that is an open question; I think that is a question that ought to be looked into.

Q. I mean now as a question of administrative policy? A. Of course, I think if one person had full charge of it all, and hold them responsible, it would be a great deal better than a divided responsibility.

Q. What do you think about the desirability of a single-headed commission as compared with a triple-headed commission? A. In the excise board?

Q. Yes. A. Well, the trouble with that would be, if a single-headed commission happened to be a proper person, it was all right; if it happened to be a person that was very lax, then it would be all wrong.

Q. Don't you think it would be easier to hold a single lax individual responsible than to hold three lax individuals responsible? A. As far as the responsibility goes, it would; but I mean now for the protection of property, churches and those interests.

Q. Protection of churches, you say? A. Churches; yes, sir.

Q. Now, speaking of that, I understand that you voted against the change in Rule 4? A. That is a place alongside of a place?

Q. Yes. A. Well, I don't know as that rule has been done away with, but the board have a right at any time to suspend any rule, and any two members can suspend a rule, and while the rule still stands, any two members of the board can suspend the rule while they are voting on an application.

Q. Have you ever voted for to license a place next door to another place? A. I haven't; no, sir.

Q. Have you ever voted to license a place in the neighborhood of a church or school? A. No, sir; with one exception.

Q. What was that? A. The place of Mr. Slevin, at the corner of Waverly place and Sixth avenue, and that was voted upon the solicitation of Father Salter.

Q. The pastor? A. The pastor of the Catholic church; I refused to vote for it, and if I had the matter to do over again I shouldn't even vote for that on the solicitation of the priest; that is the only

case I know of ; Mr. Ivins, it is this, to show you how we are at the mercy of the inspectors; of course, besides the inspector makes the inspection — he puts on the back the proximity to churches and schools; an inspector might leave off a church and school, and I, thinking there was none there, I might vote for that place.

By Senator FASSETT:

Q. Haven't you a big map of the whole city there? A. We have regular insurance maps, and he goes to that, and from that he transfers over on the back of our inspections the proximity of churches; we will say within 300 feet north, east, south and west.

By Mr. IVINS:

Q. Suppose the inspector were to leave off a church or school?

By Mr. JOHNSON:

Q. Let me ask you a question in regard to that one instance: Was not the license in that case refused until the protest was withdrawn and Father — A. That place was refused a license until Father Salter gave his consent; under the rule that I adopted afterwards I wouldn't even vote for it then, but that is about the only case that I know of where I have voted near a church.

By Judge BROWN:

Q. That is, new places? A. New places.

Q. It don't apply to old places? A. No; it don't apply to relicensing.

By Mr. IVINS:

Q. Suppose a clerk were to fail to mark on the diagram the location of a school or church, how would you, as a commissioner, ever find it out unless some third party called your attention to it? A. I wouldn't, without of my own personal supervision, except — I think then when the papers are rechecked back, then attention would be called, because it is always turned to the map to see that this licensed place is on the map.

Q. Does the chief inspector or the general inspector or the deputy chief inspector have the duty of checking these matters off? A. I think Mr. Hoyle has that; don't he, Mr. Gale?

Mr. GALE.—Mr. Hoyle checks them off after the license is granted.

A. After the license is granted.



By Mr. IVINS:

Q. That is too late, is it not? A. That is too late to remedy that, but it wouldn't be too late for the man to lose his place, if my vote counted.

Q. For the individual clerk to lose his place? A. The individual clerk.

Q. And if anything of that kind should occur, it would be quite sufficient the proof of his willingness to deceive you? A. I should take it as such and I should vote to dismiss him.

Q. And still the marking of a church or school on a diagram is not nearly so important a thing, is it, as an incorrect report of character? A. Well, the one on character the man certifies to it under oath, and on the other thing it may be carelessness for he don't put it down there.

Q. Then certainly it is not so important? A. Well, it would be in my mind.

Q. As an incorrect report on character? A. No; but an incorrect report, if a man makes it, and if he made an incorrect report on character and it would be brought to my knowledge after the same way I should very likely take the same course.

Q. Do you agree with these other commissioners in the believe that the present system of taking bonds is, as it now stands under the law, really a useless piece of supererogation? A. I can't say; matters has been referred to the counsel and suit has been ordered; until the court decides it can't tell whether it is useless or not.

By Mr. JOHNSON:

Q. You are not a lawyer, Mr. Meakim? A. No, sir.

Q. Don't pretend to give a legal opinion? A. No, sir.

By Mr. IVINS:

Q. I ask him if as a practical man, as the thing now stands — A. The only way we can test those are through the court, and by order of the board counsel is now testing them.

Senator FASSETT.—I suppose the witness knows whether these bonds have ever been enforced or collected, or whether they have ever been of any practical assistance to him or the board, or whether they are any special benefit to the system, without reference to their legal value at all.

By Mr. IVINS:

Q. You are a member of the produce exchange, are you not? A. Yes, sir.

Q. You have had considerable experience, have you not, in the compilation of statistics? A. Yes, sir.

Q. You know that figures will sometimes deceive, do you not? A. I have found that out to my detriment.

Q. You think that it means anything for you to testify as to the number of books that are kept in the office, as really showing the volume of work done there? A. Well, I don't know; the question was asked and I answered it.

Q. Think it is really important, in any sense? A. Well, I don't know; it might be and might not.

Q. Depends entirely on what those books contain, would it not? A. Exactly and what work was done in them.

Mr. IVINS.—That is all.

By Senator FASSETT:

Q. Well, Mr. Meakim, you have now sixty-five inspectors, part of them working for fifteen, part for eighteen and part for \$1,200 a year; do you know what your salary roll is? A. The salary roll I—will you let Mr. Gale refresh me on that?

Mr. GALE.—About 10,500 a month.

Q. About \$114,000 a year, is it not; how does that compare with the cost of running the department for the last five or six years? A. Well, way back the department was run much less than it is run now, and we are running the department less than our predecessors run it.

Q. Than your immediate predecessors? A. Immediate predecessors.

Q. When did \$900 cease to be the annual salary paid to inspectors; under your predecessors? A. You will have to ask Mr. Gale.

Q. I didn't know but you knew? A. No.

Q. How do you account for this increase in the force of inspectors? A. Well, there is more ground to cover.

Q. How much more? A. Well, now, I am speaking now if the inspectors do their work properly, which, of course, I take it for granted they do until charges are brought against them.

Q. The number of licensed places now is about 8,000? A. The number is about 8,885, whole city, of every kind.

Q. At the time the inspectors were less in number, and much less, the number of licenses were about 12,000? A. There is more ground to cover now; they have to cover more ground.

Q. You mean including the annexed district? A. The annexed district.

Q. What do you think about the relation of the amount of help you have to the amount of work you have to be done? A. I think if the

work is done properly; I think if the work is done conscientiously, that I don't think we have any too much help.

Q. You don't keep all your inspectors busy the year round? A. That is what I am saying; they ought to be kept busy the year round because the inspectors ought constantly to keep a canvass of the precinct.

Q. Well, do they do that? A. Well, that, of course, I don't know whether they do or not.

Q. If the only work of the inspector is to inspect upon application, then they don't keep busy all the time? A. No; but it is a great deal like a mercantile house, having plenty of work for the men to do during the busy season, having nothing for them to do in the lax season, and yet they want to keep experienced men to have when they do keep busy.

Q. I was going to ask you right here, among the things that you recommended to improve the service, was an increase of salary, but it seems to me that the increase from nine to twelve hundred and the increase in the number of inspectors has resulted in poorer results to the city; increased the cost of service and less work to show for it? A. Well, we have increased on the receipts right along since we have been there; the receipts this year, I suppose, will be about a million and a half.

Q. Who distributes the work to the inspectors geographically? A. The chief inspector.

Q. And who is he? A. Mr. Thomas Duncan.

Q. You testified a little time ago that there were cases in which you had interfered to prevent inspectors being assigned to those parts of the district where they were most influential politically? A. Yes.

Q. Why shouldn't you interfere in every case and have the inspector transferred? A. Well, my suspicion might not be aroused in other cases, and the transfer might be made without me thinking anything about it; I would if—

Q. To leave an inspector then detailed to that part of the city where he votes and has acquaintances and political influence, is to open the door to temptation to him, is it not? A. If he is to be tempted.

Q. If he is to be tempted at all? A. If he is to be tempted.

Q. And, being human, I suppose every inspector is open to temptation? A. We have found out about those that have and they have had to talk.

Q. Well, they have yielded? A. Yes; that shows that they can be tempted.

Q. It would be a good thing, wouldn't it, if these inspectors were,

all of them, detailed to those parts of the city where they did not have their immediate political pull? A. Certainly; and I think any person who is interested in an inspector will so advise.

Q. These rules of the commissioners, how have they developed? A. How do you mean?

Q. Where did you get them; what is their evolution? A. They were made by the board.

Q. Made by this board *de novo*? A. No; some were rules of the other board and some were rules of the other board, and then what we considered improvements.

Q. They are outlines of policy? A. Outlines of policy.

Q. That the exigencies and experience of years have developed into a code? A. Yes; which we think are for the safety of the property-owner and church and institutions.

Q. But they have no binding force in law? A. No.

Q. And two of you might overrule them? A. Overrule them.

Q. Why wouldn't it be a good plan to have that crystallized experience of years enacted into a law? A. I think some of the rules ought to be; I think the question of proximity to churches, schools and institutions ought to be made a law.

Q. That is, you think there should be a statutory enactment regulating the distance from a church or school-house within which distance no saloon should be licensed? A. That is it exactly; not leave it optional with the board.

Q. Has your board fixed a definite limit? A. I think that each commissioner acts on his own opinion.

Q. There is then no definite rule which governs the action of your board? A. No.

Q. Has it ever governed the action of the board, that you know? A. I could not say anything about that.

Q. But it would be a good thing to have some such enactment? A. I think it would be to have an enactment that would be compulsory.

Q. Would you be willing to fix the limit which you think would be a good statutory limit? A. Well, I am rather severe on that, I'm afraid.

Q. Well, as a result of your experience, I mean? A. Well, I think 300 feet; not less than 300 feet.

Q. That is a little more than a city block, is it not? A. That is a little more than a city block; it is about half of an avenue block.

Q. Well, have you any suggestions to make where, through legislation, you think the excise system could be improved? A. Well, there are



things that I think of; I would sooner take a little time and then send a communication to the committee.

Q. Would you prefer thinking it over and writing suggestions? A. I would prefer thinking it over.

Q. Well, will you do it, Mr. Commissioner? A. I will, sir; with pleasure.

Q. Can you do it within a given number of days? A. Any time; do it within a week; I think that is a very important question, and off-hand it wouldn't have the same result as though a person could sit down and think.

Q. What is the most serious difficulty you have to contend with in the discharge of your duties? A. In what respect do you mean?

Q. In determining what are and what are not proper places to license? A. Well, of course, it is having to be guided entirely by the inspector's report and the responsibility that naturally throws upon cases of course, it makes a peculiar state all the time for fear that the commissioners may be imposed upon.

Q. Are you constantly cutting down the number of licenses in the city? A. We are.

Q. That is the policy of the board? A. Policy of the board.

Q. Is the effect of that policy to increase the pressure for the granting of licenses in given instances? A. Well, I think it is done so quietly, I don't think the people in the trade realize that the licenses are being cut down; they will wake up some day and then that state of affairs may come.

Q. Would it result to the benefit of the administration of the laws if the excise department could be removed from politics? A. I think that is the solution of it.

Q. Would it be possible to do that? A. I don't think so.

Senator McNAUGHTON.—Would it be practical?

The WITNESS.—I have my doubts.

By Senator FASSETT:

Q. Is there anything you can suggest which would tend to lift it above the operation of practical politicians upon it? A. That is something that would take thought.

Judge BROWN.—Abolish politicians would be the only way.

Senator FASSETT.—You will have to abolish the human race to do that.

The WITNESS.—I am afraid as long as politics lasts in this country the excise board more or less will be governed by politics; I am only

speaking now of what would be a good thing for all interests if it could be taken out of politics.

Q. What do you mean by taking it out of politics; by making it non-partisan? A. Having it non-partisan, part partisan, or people in who have no affiliation with politics in any form but simply go in there to carry out the law.

Q. In other words, if it could be made so that you could decide upon an application for license and discharge all your duties without reference to the political affiliations of parties making application; is that what you mean? A. That is what I mean, exactly.

Q. And as matters stand to-day, political affiliations of applicants, both for office and for licenses enter as a large factor into your discharge of your duties? A. Not mine; no.

Q. No; I mean as a board. A. Well, I don't know; I can't — now, I am speaking of the commissioners — I —

Q. I don't want you to misunderstand my question; I don't mean to embarrass you; I mean in the practical discharge of your duties don't you find that the question of political affiliations is constantly appearing in reference to an application for license or applicant for office? A. Of course, it would be clearer sailing for all sides if that didn't enter into it, but of course, more or less it does enter into it.

By Judge BROWN:

Q. Has the question of politics ever entered into the consideration of the boards in granting or refusing a license? A. No, sir; never.

Q. It has never been suggested by this present board? A. No, sir.

Q. Then it is a mere abstract opinion of yours that if the board was divided it might work smoother; is that it? A. There would be no chance of that entering in, if they were so inclined.

Q. Well, under the present administration it never has entered into it? A. Never has; no.

Q. All classes of persons have been licensed? A. Yes.

Q. No matter what their faith or political creed might be? A. The pros and cons are not entered into if the qualifications of the party are all right and the surroundings are all right.

Q. It is a question of place and man? A. Yes, sir.

Q. That is the only consideration this board has ever given to an applicant for license? A. Yes, sir.

By Senator FASSETT:

Q. Of course, you mean by that, Mr. Meakim, that in your board meetings you do not discuss whether the man is a Republican or

county man or Democrat? A. No; the question is discussed whether a man is entitled to the license or whether he is not.

Q. And that is determined by the report of the inspector very largely; is it not? A. Certainly.

Q. And these inspectors are, with one possible exception, all Democrats; are they not? A. I suppose they are; they ought to be if they are not.

Q. And those sixty persons you have put in there are mostly appointed on the recommendation of Tammany society, I understand you to testify? A. Yes, sir; the leaders of the Tammany organization.

Q. If there was any favor to be shown with regard to making a report upon an application, these people have it in their power to show a favor; have they not? A. The inspector?

Q. Yes? A. As I have said, we are at the mercy of the inspectors.

By Judge BROWN:

Q. The Senator asked you whether the question of politics entered into the board meetings; there might be a suggestion from that as to whether they are ever considered outside of the board meetings as to applicants for licenses, their political faith; would that determine whether they were entitled to license? A. No.

Q. Inside or outside of the board, so far as you have any knowledge? A. No, sir.

Q. And none of your brother commissioners have suggested anything of that kind with reference to it? A. No, sir; never spoke of it.

By Mr. JOHNSON:

Q. Did you ever know of a case where an inspector discriminated because of an applicant's politics? A. Never heard of it.

By Mr. LEVENTRITT:

Q. I want to call your attention, commissioner, to the statement you made with reference to Mr. Delaney, who, you stated, was appointed at the instance of Mr. Fish; are you positive that you saw Mayor Grant with reference to that matter at all? A. I certainly did.

Q. You did? A. Well, incidentally.

Q. Did you inquire of Mayor Grant concerning Mr. Delaney? A. No, sir.

Q. Did not? A. No, sir.

Q. Are you positive that the mayor knows Mr. Delaney? A. I don't think the mayor does.

Q. Don't think he does; are you positive that he had any connection whatsoever with the application that was made on behalf of Mr.

Delaney, or with the favorable consideration of that application by the board of exercise? A. No, sir.

Q. Do not? A. No, sir.

Q. So, as far as you know, Mayor Grant had nothing at all to do with the matter; is not that the fact? A. Only from incidental conversation with him.

Q. You inquired of him of your own motion? A. Of my own motion.

Q. Of your own motion? A. No; Mr. Fish said: "You can see the mayor on the subject;" I don't think the mayor knows Mr. Delaney; wouldn't know him if he saw him.

Q. The mayor wouldn't know Mr. Delaney if he saw him? A. No, sir.

Q. Are you positive that Mr. Fish told you that you might inquire of the mayor if you saw fit? A. I am pretty positive.

Q. Did he ask you to inquire of the mayor or leave it to your good judgment as to whether you should or not? A. Left it to my good judgment.

Q. Do you remember your conversation with the mayor after that suggestion on the part of Mr. Fish? A. I think the conversation was kind of this way — that Mr. Fish had recommended Mr. Delaney, and asked him if he knew anything about it, and he said: "Well, if Mr. Fish will give you good man, a man that you think will do well in the board, I should appoint him."

Q. He didn't indorse Mr. Delaney or anybody, did he? A. He didn't know Mr. Delaney.

By Mr. JOHNSON:

Q. I want to ask you just a few questions, Mr. President; is not the time of the board and the individual members of it entirely taken up by the discharge of its present duties? A. I can speak of myself and also my brother inspectors; my average time of getting there is half-past 8 in the morning, and my average time of going home is anywhere from 4 to 5.

Q. Would it be in any wise possible, in view of the present duties which you now discharge, either for yourself or for your brother commissioners to check up the reports of those inspectors of these 8,800 applicants for saloon licenses as to the questions of character? A. As I said before, we would grant about fifty licenses if we did that.

Q. So that it is absolutely impossible, in view of your other duties, for you to check up the reports of these inspectors, or to investigate the character? A. In other words we are at the mercy of the inspectors; that is the sum and substance of it.



By Mr. LEVENTRITT:

Q. Have the commissioners in the performance of their official duties been required to remain at the office of the board after 4 o'clock in the afternoon? A. Yes, sir.

Q. Is that a matter of frequent occurrence? A. Yes, sir.

Q. Engaged in the transaction of what kind of business after that time generally? A. The signing of bonds and the signing of the licenses so that they would be ready for the people in the morning.

Q. Could you suggest any means by which you could possibly avoid the assistance of the inspectors? A. No.

Q. There is no way, considering the large territory covered, and the large number of licenses issued, by which the commissioners themselves could make these investigations? A. The commissioners could not.

Q. None at all? A. No.

Q. It is a matter of physical impossibility? A. Certainly; they would want a horse and wagon, and then they couldn't do it.

Q. And consequently they must necessarily be dependent upon others? A. Yes, sir.

Q. And you have been thus far dependent upon the reports of these inspectors as they have submitted to you? A. Yes, sir.

Q. And accepting them as having been faithful returns of investigations made by them, you acted upon them accordingly; is that it? A. Until we found out the contrary.

Q. And have you, up to the present time, found out to the contrary? A. I think there have been one or two inspections there; I have ordered reinspections where they haven't found out satisfactorily; but at the same time I think the inspector was honest in his inspection; I think he felt that he had made a proper inspection.

Q. The instances have been very rare, have they not? A. I don't remember but one or two.

Q. That is, of inspections made among a large number of people, and considering the number of inspections made among so large a number of people, and considering the great number of inspectors in the office, is it your opinion that those inspectors are up to a fair average of intelligence? A. Yes; I think they are, for the examination they go through and the salary they receive; I think they are about up to the average.

Q. They don't have applications from men of very great intelligence for positions of that kind? A. Not for that salary.

Q. And positions of that kind are not very desirable? A. I should not think so; I wouldn't want it.

By Mr. JOHNSON:

Q. In other words, you are obliged, as everybody else in business is, to depend upon the honesty of your employes in a great many instances? A. Just as I said before.

Q. If we didn't all of us do that, business would stop? A. Yes.

By Senator McNAUGHTON:

Q. How many applications have you considered from the first of May up to this time? A. I have been away a month.

Q. Can you tell generally? A. Yes, sir; in the course of a year I suppose we consider may be 10,000 or 11,000, with the rejections and the transfers.

Mr. LEVENTRITT—I would suggest that Mr. Gale said about 4,700 since the first of May.

The WITNESS.—About 4,700 since the first of May.

Q. You have to do more work on an application you reject than upon one you approve? A. Certainly; of course; and often we set it down for a hearing, and have people there and all that; one we approve we simply renew it.

Q. It is very much more work? A. Yes, sir.

Q. It is physically impossible for you personally to verify the reports of the inspectors in regard to the moral character of the applicants, is it not? A. Yes, sir.

Q. It is a physical impossibility, in each case it would be—it would be physically impossible? A. It could not; we wouldn't grant any licenses if we had to go around and verify what the inspectors did.

Q. Consequently you have to depend upon their report? A. Yes.

Q. Would it be of any assistance to you if accompanying the application there were a petition of two or more citizens, residents of the districts where the applicant resided, certifying to certain facts in regard to their character and their former occupations, and so on? A. Well, in some cases it would be all right, and in some cases there are localities where they get a dozen citizens to certify; they would all certify to the same thing.

Ex-Judge BROWN.—That was the law at one time.

The WITNESS.—And of course that would help the commissioners more; that would throw more of the responsibility off the commissioners.

Q. Wouldn't it be of some help to them? A. Yes; it would.

Q. You would then get reports as to the previous occupations of these parties? A. Yes, sir.

Q. Has any Republican organization ever recommended to your board any person for employment? A. The Republican organization?

Q. Yes. A. Yes, sir; they have.

Q. In many instances? A. One.

Q. What organization is that? A. Julius Simon is the man; I suppose Mr. O'Brien was in good standing then in the organization; I don't know how it was later on.

By Senator FASSETT:

Q. Was that Johnny O'Brien's organization? A. When he was in the organization, before he started out for himself.

By Senator McNAUGHTON:

Q. You appointed him? A. Yes, sir; and he was a very good man, too.

Q. Do you remember his name? A. Julius Simon.

Q. And that was the only instance where a Republican organization has ever recommended to your board a man for your employment? A. Yes, sir.

Q. Then you had no occasion to refuse to appoint? A. No.

Q. Has any citizen outside of Tammany, any individual person recommended appointments to you? A. I think there was one at the beginning of the administration; I think Mr. Walter Stanton recommended a gentleman; but the gentleman was not appointed.

Q. That is the only instance in your recollection? A. That is the only time I remember a citizen recommending an appointment.

Q. Then you have not had occasion to decline to appoint on the recommendation of citizens? A. No.

Q. That is a very good reason then for not appointing them? A. Yes.

By Senator FASSETT:

Q. The citizens recognize Tammany's monopoly, don't they? A. I suppose they don't recommend appointment because they don't think it is of any use.

By Mr. LEVENTRITT:

Q. Didn't Rev. Howard Crosby recommend the retention of Mr. Gildersleeve? A. Yes, sir; they didn't ask about the retentions, but about the appointments.

Q. His retention was recommended by Mr. Crosby? A. Yes; that was a retention; but they spoke about the appointments.

By Senator McNAUGHTON:

Q. The work of Inspector Hirsch is wholly outside of the office, is it not, after he receives his instructions from the secretary? A. Yes, sir; except when he makes his report back; the receiving and the report back is all the work he has to do.

Q. That is the result of his inspection? A. Certainly.

Q. Would it be possible for you, as a member of the board or for the whole board, to inspect the work of Inspector Hirsch? A. No; it is just exactly as with the report of the other inspectors; if Inspector Hirsch makes a report back with a clean bill of sale that there is nothing against that place, unless the commissioners go and make an inspection themselves on it, they must accept that as all right without they find out to the contrary, and if they find out to the contrary, punish him for making a false report.

Q. And I understand there has been no complaint made or entered by Inspector Hirsch; no complaint? A. No, sir.

Q. Did you ever, before to-day, see the testimony of Inspector Hirsch? A. I don't believe I did; when it was up last spring I was sick a greater part of the time, and consequently did not keep a close account of what occurred.

Q. I understand you to say that in granting application the politics of the applicant do not enter into the consideration at all? A. Not at all; we don't know his politics.

Q. You make no inquiries as to his politics? A. No; we don't know anything about it.

Q. And it is not an element in reaching your conclusion? A. Not at all; it is whether he is of good moral character, and whether the surroundings will permit of granting a license for the place.

Senator FASSETT.—That is all. If you will furnish us with that suggestion you refer to, we would like to have it.

Mr. IVINS.—That is all with Mr. Meakim. Judge Brown will now take the stand.

EDWARD BROWN, counsel for the excise board, being duly sworn, testified as follows:

By Mr. IVINS:

Q. How long do we understand you to say you have been counsel for this board? A. Since May 7, 1889.

Q. As counsel for the board, it has been your duty to familiarize yourself with the laws? A. Yes, sir; I have endeavored to do so, to the best of my ability.



Q. Will you now tell the committee what you believe to be the particular features of the law; which are either unintelligible or uncertain, or insufficient? A. There is a very serious question as to what might be understood under a section of the law with reference to the sale of liquor and election days; the general belief is that all places must be closed and kept closed between the hours of 1 and 5 A. M., and during Sundays and election days; notwithstanding the express terms of the statutes as to those hours, the law permits the sale, under the decision of the General Term of the Supreme Court.

By Mr. JOHNSON:

Q. Just one moment; will the committee need Commissioner Fitzpatrick any more?

Senator McNAUGHTON.—We want some information on this point. There was a suggestion some two or three days ago that the interest in the German Bank would be quite a considerable sum, if you exacted that on your deposit. Have you taken any pains to inquire in regard to that matter?

Commissioner FITZPATRICK.—Yes, sir; I have had the monthly receipts made up, the total, and an average made of about \$58,000 a month. That would be the average. At one per cent, that would be \$580, and at two per cent, for the year, it would be \$1,160.

Senator McNAUGHTON.—At two per cent.

Commissioner FITZPATRICK.—At two per cent, so that it would hardly amount to the \$10,000 suggested by Mr. Ivins. There is another question as to that, which I have not questioned Judge Brown about.

Senator McNAUGHTON.—Did you make that inquiry at the bank as to that?

Commissioner FITZPATRICK.—No; I was backward in saying anything to the bank about it. I didn't know of the existence of any law that required the interest to be deposited in the treasury, and I never made inquiry, because they might attribute it to my selfish motive, that I was looking for interest on the money myself.

Senator McNAUGHTON.—But the average you stated, that came from the bank?

Commissioner FITZPATRICK.—Yes, sir.

Senator McNAUGHTON.—If you received two per cent, that would amount to about \$1,160 a year.

Commissioner FITZPATRICK.—Yes, sir.

Senator FASSETT.—On daily balances.

Commissioner FITZPATRICK.—But they wouldn't give that way. They would ask the average of the month, and give it to you on the average of the month.

Senator FASSETT.— That is done on daily balances.

Mr. IVINS.— That is done on daily balances in the city.

Mr. JOHNSON.— The average is the same.

Mr. IVINS.— It would result in the same thing. It is on daily balances, but it would actually not amount to over between \$1,100 and \$1,500. When I said \$10,000 the other day, it was a hypothetical question, and I confess that in making my figures very rapidly, I got my dot in the wrong place.

Commissioner FITZPATRICK.— There was another question which occurred to me yesterday, in thinking that matter over. The interest accruing on that money, which comes from the excise board, there is a specific provision in the law as to what disposition should be made of it by the board of estimate and apportionment. Now, could that money be added to the city treasury, or must it go back in the excise fund?

Ex-Judge BROWN.— None of this money goes into the city treasury, except as custodian of the fund.

Mr. IVINS.— It would be for the corporation counsel to pass upon that later on.

Commissioner FITZPATRICK.— Do you want me any more to-day?

Senator FASSETT.— I think not.

The examination of ex-Judge Brown was then continued as follows:

By Ex-Judge BROWN:

Q. Under the act of 1873, there was a prohibitory statute as to keeping licensed places open, and prohibiting the sale of liquor as a beverage on election days and Sundays; that was for a long time supposed to prevent hotel keepers from entertaining guests; but the Supreme Court of this department has decided that there is nothing in the law which prevents hotel keepers from selling on election days and Sundays with meals to their guests, or other.

By Mr. JOHNSON:

Q. The consequence they are constantly eating at every restaurant?  
A. In 1885, the law was again changed, and there was no distinction made between hotel keepers, innkeepers and others and the statute as it stands to-day permits licenses to be issued to any persons having a good moral character, whether they propose to keep a hotel, inn or tavern, or otherwise; there is a conflict in the statutes in respect to that, as to whether that would apply generally to any person who might keep his place open and sell liquors, who might give meals and sell liquors at the same time during Sundays and on

election day; that is a disputed question, and it is popularly believed that it does not; dealers are punished because they do keep open, even in cases where meals are served, where they do not keep a hotel, or have a hotel license; with reference to the administration or supervision of the commissioners over liquor dealers, as I stated the other day, it is a question more of construction than of express statute; there is no provision in the statute requiring the commissioners of excise to supervise or control the liquor business after the license has been issued; it can only be gathered from the use of the words "may entertain complaints" in the statute; the practice, and that recognized by the courts, is, where complaints really had been made by citizens or others, where violations of the law had been committed and proceedings initiated before the commissioners — there is no provision in the law or in the amount of moneys provided for the execution of the law or for the punishment of persons who violate it, but with reference for those licensed penalties are licensed for violations of the law that do obtain for violations who do not apply for licenses; the statute prohibits that sale of liquor in small quantities, unless a person has a license; if they violate that law they may be arrested, and upon conviction, they are fined; there is nothing in the law which would prohibit them or prevent them from obtaining a license afterwards.

By Mr. IVINS:

Q. To go back a minute, if there is anything whatever which would prohibit them from getting an appropriation from the board of estimate and apportionment to enable them to do all this permissible work, if they saw fit to do it? A. I believe that that would be a burden which should not be thrown upon the commissioners.

Q. That is not the question; the question is, whether there is anything in the law which prohibits them or prevents them from getting an appropriation from the board of estimate and apportionment out of the means at their command to enable them to do all this permissible work, if they saw fit to do it? A. Nothing in the law, except this, that it might be inferred that they had not the right to supervise or control the sale of liquors, and that they would not be entitled to any fund for the enforcement of the law; that would be a matter of interpretation.

Q. That is for the board of estimate and apportionment? A. That is for the board of estimate and apportionment.

Q. Go on with the other points? A. The other points referred to are as to the question whether the provisions for the revocation of licenses have applications now under the present condition of the

law; under the law of 1857, a party was not entitled to a license who had been convicted of violation of the law for three years after that conviction; it required, though, the return of that conviction to the county courts, and various methods by which that was brought to the attention of the justices of the county courts, and upon the rehearing, the question of revocation would come up, and if they determined to revoke, then the party would not be entitled to a license for three years thereafter; that was all omitted in the later enactments, and it is a question now whether that does really apply or not; it would require, indeed, a thorough analysis of the relations of the various statutes, one into the other, to point out all the deficiencies and defects in the law as it at present exists; the policy of the enactments seems to have been to cover an expedient, or cover a condition of things applying to a particular portion of the State, without reference to its application to other portions, and in these enactments the prior law was either omitted or ill considered at the time of their adoption, and that brings about these various conflicts; with reference to a licensee who violates the law, if the statutory penalties can be enforced against him, there are four modes and manners of punishment, all of which may be enforced against a person who obtains a license and through ignorance or willfully violates the law; that does not apply to persons who sell liquor without a license; this dual manner of trial is a defect in the law, I would suggest; a man may be arrested, tried and acquitted before the courts for a violation of the law, yet the commissioners would have the right after that trial to summon him before them under the present condition of things and retry him and revoke the license and impose penalties.

Q. Would not conviction vacate the license? A. I said if acquitted; there is nothing in the law to prevent them doing so.

By Senator FASSETT:

Q. The conviction is supposed to vacate the license? A. Yes, sir.

By Mr. IVINS:

Q. Is there anything in the law which prevents the commissioners from treating every arrest by a regularly authorized police officer as equivalent to a complaint and sending for the police officer and treating it as an ordinary complaint, and then revoking the license if they want to on the trial? A. Yes; that it is in anticipation of a trial in a regularly constituted court and under the protection of the rules of evidence and the laws as to violations.

Q. Is there anything in the law that prevents their doing so? A. Nothing in the world.



Q. Don't you think if they were so, to send for him, and the penalty of the revocation of a license were to be enforced, that the law would be more easily enforced, generally, than it is now, when we simply look to the conviction which is followed by a fine of twenty-five dollars or \$100? A. No; I think that the uncertainty of the law, and the oppression arising from the law itself has rather a tendency to invoke violations of it than otherwise; I think that every person is entitled to the protection of the courts and the rules of law there established or observed in the trial, and then if a conviction follows, the revocation follows that.

By Mr. JOHNSON:

Q. Carrying that through a little farther, has it ever occurred to you to consider the question as to whether or not a man who pays for a license does not acquire a right of property in the money that he has paid that can not be taken away from him; that can not be confiscated except by process of law, and that this court that is provided for revocation is not a court of record with that power? A. No, sir; I do not think so, because the courts of this State have declared this regulation or the sale of liquors in small quantities within their constitutional powers; but there is a principle by which parties who pay in and receive a license under the present law are entitled to the continuance for one year; that applies only in this city, Brooklyn and Rochester; in other parts of the State licenses may be granted for shorter periods or various periods of the year; upon a revocation of a license there is no provision in the law for a return of any portion of the license fee.

Q. That is what I am calling your attention to? A. That may be proper.

Q. I mean whether they have a right to take away the privilege and still keep the money? A. Yes, because it is a breach of their contract with the State that they would observe the law when they obtained.

By Mr. IVINS:

Q. It has been held that it is a penalty that they agreed to pay? A. That they agreed to pay.

Q. There is another element in the law with reference to the continuance of the license for a year? A. A dealer obtains the license; if, for any reason, he is not able to continue to carry on the business at the place designated for the year, there is no power, control or right, on the part of the commissioners, to consider that reason, and he must retain the license in his possession, so far as relicensing the

place is concerned, to continue for the full period of a year, although eight or ten months may have elapsed; many complaints have arisen and great losses in some instances have occurred from that fact alone; a person is either dispossessed or a place burns down, or something of that kind, and he can't re-enter that place, and that place can not receive a license unless the party obtaining a license prior surrenders it or waits until the expiration of the year; some remedy ought to be found for that; my own idea about it would be that this present law is so incongruous that you can't patch it any farther; the more patches you put on it the worse it becomes.

Q. Can you concede a more incongruous and unintelligible and conflicting system than we have got here to-day? A. I do not know of any.

Q. It is about as badly mixed as it can be? A. It couldn't be worse; the language is incomprehensible to many; it is to me in many instances, as to what the law actually does mean, and every question arising under it requires the adjudication of the courts to guide persons dealing, either consumers or those who are interested in the liquor traffic, for or against it; it is unsatisfactory to all; my idea would be that the whole be repealed and one adopted in such plain language that it would not require either counsels or courts to understand it, and more economy would be obtained in that way than by any other method that has been suggested here during this investigation.

Q. That is a purely unselfish suggestion on your part? A. A purely unselfish suggestion, and I am the most interested person as counsel.

By Senator FASSETT:

Q. Did you ever hear of any law as clear as that? A. Yes; this could be made perfectly plain.

Q. I would like to know one law that does not require a lawyer and a judge to explain it? A. I could make an explanation in this connection; the word "beverage" requires a judicial interpretation; if the community were told that the hotel people could within the law itself sell liquor with meals, sell intoxicating liquor, then every man who could read would know what that meant.

Q. No; there would be a question at once, as to who was a hotel keeper, and who was his guest? A. No; the hotel keeper is well defined.

By Mr. JOHNSON:

Q. It would be a question as to what might constitute a meal; a bowl of crackers and milk might be considered a meal? A. Yes; that might be a meal.

By Senator FASSETT:

Q. Don't you see you are in trouble at once?

The WITNESS.— Mr. Johnson, have you read that case of Vilas?

Mr. JOHNSTON.— No; I have not.

The WITNESS.— It is very plain there; there the hotel keepers may sell liquors with a meal; they don't define a meal or what constitutes it; if that was in the statute book we could better understand it than what is meant as a beverage.

By Mr. LEVENTRITT:

Q. You have been connected with this board as counsel since this board went into office or from about that time? A. Yes.

Q. In view of the conflicting nature of the law as explained in your testimony, how has the law, as it stands, been administered by the board? A. As well as it is possible to administer it, from my observation.

Senator FASSETT.— That is asking the witness to give an estimate on his own work; isn't it?

Mr. LEVENTRITT.— No; he is merely a person connected with the board.

Senator FASSETT.— But it is practically asking the witness to give an estimate on his own work.

Mr. LEVENTRITT [to the witness].— I suppose modesty would lead you to admit the law branch of the board, but I would refer to the other.

Senator FASSETT.— I think that is asking the witness for an estimate of his own character.

Mr. LEVENTRITT.— No; he is not one of the commissioners; he has been present at the board and has seen the modus operandi of the business.

Senator FASSETT.— I suppose you ought to ask him, as a preliminary to that, how many boards he has been counsel for. I have no objection to Judge Brown making any such answer as he desires; but I don't see that there is any value to the testimony growing out of the nature of the case.

The WITNESS.— If it is of no value, there is no use in putting it on record.

Mr. LEVENTRITT.— I mean as developed by the character of their duties, the time devoted to the performance of their duties, and the manner in which the department is conducted.

By Mr. IVINS:

Q. Let me ask you first how many hours a day do you spend there?

A. I am there every day nearly.

Q. For how long? A. Until about noon time.

Q. What time do you get there? A. About 9 o'clock.

Q. What time do they get there? A. About that hour; not later than half-past 9 usually.

Q. So that you are able to have your eye on them for two hours and a half in each day? A. Certainly; and after that, if any questions arise as to the construction of the law, I deliberate upon that elsewhere.

Q. Then you are not in a position to tell exactly the entire value of the day's work? A. Not at all, nor of the interior administration, the clerical work.

Q. Have you any more suggestions to make with regard to the amendments? A. I have; I don't think it is good policy to add any more power to the commissioner; to give them any more power.

By Senator McNAUGHTON:

Q. You mean judicial power? A. I mean judicial power; I think they could be deprived of it rather than have it extended, and that the commissioners should be charged solely with the granting of licenses, and that the punishment for violations of the law should be left to the courts; a conflict of authority of judicial power rather tends to discredit the law than to strengthen the enforcement of the law, and if the responsibility is put upon one branch of the administration, it is easier to trace that responsibility and fix it than where it is dual; they should not have the power to revoke licenses only where they have been obtained by fraud or misrepresentation, and a conviction should count to a revocation of a license; as to licensing places permanently without regard to the person, I think that that would be an extremely dangerous undertaking.

Q. Before you go into that any further let me ask you some more questions about this matter of revocation; how long were you a judge of the city court? A. Five years and a half.

Q. You are thoroughly familiar with its work? A. Of the city court?

Q. Yes. A. Yes, sir.

Q. And with its calendars? A. Yes, sir.

Q. You still practice in those courts, don't you? A. Yes, sir.

Q. Is that one of the courts that is known in the city as an over-worked court, or is it not a court with comparatively a good deal of



time to spare? A. Some time to spare; there is plenty of work there at all times.

Q. Is there any reason, so far as the volume of work in that court is concerned, why the judges of that court, and if there are not enough, sufficient additional judges, should not be invested as a special court with summary power to act on all of these licensed cases? A. If the force were increased there would be no good reason why that or any other court should not have the power.

Q. Don't you think that the best way, if you were going to decrease the judicial power of your board, would be to give summary power to one or another of the courts in some way to try these cases and dispose of them? A. Within the rules of evidence and the protection of the law?

Q. Of course; that is involved in the term "courts?" A. Yes, sir; some plan of that kind would be, in my opinion, the better plan for the determination of these cases.

Q. You are familiar with the fact, are you not, that the vast majority of all arrests and of all complaints do not result in trial in this city? A. I am aware of that fact, and I believe that if the law were well understood, and the co-operation of all who are interested in it were obtained, there would not be so much difficulty in enforcing it; that is my firm belief; there is another point I want to bring out, and that is as to licensing places; I don't think that that would be good policy in this State, or in this city particularly, because it would vest in an owner of a building, a larger right than he is possessed of now, and it would give him a permanent right to license, rather than the right that now exists which is determinable by the Legislature and merely a personal right so long as the party using it observes the law; I think that is entirely the better plan, better than licensing places, because conditions change, and a party holding a license over the places might not want to change if it became very valuable for other purposes.

Q. It has never been suggested that because a place had been licensed once there is any obligation upon anyone to license it again?

A. There was a suggestion here as to a remedy for the present defects, that the place should be licensed without regard to the person, and that continued as permanent.

Q. I didn't understand that the suggestion was that it should be permanent? .

Senator FASSETT.—That was Commissioner Koch's suggestion?

The WITNESS.—That suggestion was made. I think it would be a very dangerous practice in this city; there is another thing connected with the licensing of stores which I think requires attention, and in

connection with the selling to minors; the licensing to stores to sell in quantities not to be drunk on the premises gives more opportunities to violate the law against selling to minors than the licensing of saloons; usually the saloons are open and minors can be observed going in there, while the storekeepers have opportunities of concealing their traffic that do not exist in saloons; and for the protection of the minor, as well as the dealer, and of the parents, I think that the person who sends a minor to obtain liquor at a liquor store should be equally amenable to the law with the person who says, who is simply put upon an inquiry if the party appears to be under a certain age; the parent of the child must know its age when he sends him, and there the responsibility ought to be divided between the liquor dealer and the person who sends the minor; I think that ought to receive the investigation and the consideration of this committee, and I think it would be an advantage to the community at large if something more than the present statute existed.

By Senator FASSETT:

Q. Do you think that a good license law which would meet with the requirements in this city would apply to the rest of the State? A. No, sir; I think that where there is a large aggregation of persons, such as we have here, and with our surroundings, it requires a different law entirely, and the interests of those here might be considered separate and apart from those in the other part of the State.

Q. You think that a good law for New York city would not necessarily be a good law for Buffalo? A. It might not; with large cities like that it might be considered so.

Q. There are elements then in the life of a rural population that would render a law that would be good enough for them and meet all the exigencies there an improper law for New York city? A. It might not work as well as in New York city.

Q. Would the mere fact of a large population centered in one place operate to make it proper to make a distinction in the license fees? A. It should, because the volume of business is greater.

Q. You think it would not be unjust to have a distinction made between cities of the first class and country towns? A. I shouldn't think so, because it would depend upon the volume of trade.

By Mr. JOHNSON:

Q. In other words, does it not cost less money to get drunk in the country than in the towns, because the liquor costs less? A. There are two other matters which I desire to call to the attention of

the committee, and that is as to the bond question; I think that they should be abrogated entirely; they serve no good purpose; the expense of trying to enforce them would be greater than any benefit gained, and there is a tendency for men to assume to be possessed of more wealth than they actually are in order to be qualified to go on the bonds; the conditions under which they are given now are somewhat ambiguous, and nothing is obtained by requiring them; by the amendment to the law of 1886, it would appear that the Legislature intended that these licenses should be freely granted, because they enacted that if the commissioners failed to grant a license under certain conditions they could be compelled to do it; that puts the burden upon the commissioners of showing that their action has been entirely right in every respect, and calls for another definition as to what the meaning is of the word "arbitrarily," or "for good or valid reasons," when there are no reasons nor no rules fixed by statute nor by the law.

Q. What do you think of the Mandamus Act? A. That is what I am speaking about.

Q. It ought to be repealed then you say? A. No; I don't recommend it; I called the attention of the committee to that fact; and the manner in which this legislation has been passed with reference to the excise law; in that act alone three of the most potent remedies known to the law had been jumbled together, mandamus, certiorari and the order of the court, and to tell what it means requires more ability than I am possessed of; the ordinary purpose of a mandamus is to compel inferior tribunals to perform their duty; certiorari is to review what they have done, and the inherent power of the court there is no limit to; so we have that jumble in the last act of the Legislature upon the excise law, and it is impossible to know just exactly just what it does mean or the extent to which it can be utilized.

By Mr. IVINS:

Q. Its effect certainly is to take away the responsibility from the board of excise in the last instance, and vest it in the courts, is it not?

A. I doubt it, for this reason, the board of excise must not act arbitrarily; no public officer can afford to act arbitrarily, and it is only where they act arbitrarily that the courts have jurisdiction to interfere; yet in one instance the court has become the board of excise and issued a license after taking testimony which never had been taken before the board of excise, and submitting such testimony to a jury.

Q. What case was that? A. That was the Krause case, and that is

in the Court of Appeals now; and it is in fact a question whether the courts become a board of excise or whether the excise commissioners administer the law.

By Senator FASSETT:

Q. Neither of the commissioners nor yourself have recommended among desirable changes anything with reference to the fees? A. The amount.

Q. Yes; the amount; what would be the effect of increasing the license fees and entering upon a system of high license? A. I have never considered it from that standpoint; not in the administration of it; I am speaking generally of the effect of the law, and by observation as far as it has presented itself.

Q. You have not any opinion then to express on that subject? A. No, sir; not as to the question of high license or low license; that is a matter of legislative policy that the legislators are better qualified to determine than I am.

Q. You have been engaged in the practical administration as counsel; have you any suggestion to make as to the effect on the conduct of the traffic in this city as to a high license, as compared with the present fees? A. I think that the probable effect would be to concentrate the business in the hands of a few rather than the many; as to whether it would reduce the quantity consumed, I doubt it.

Q. Or the manner in which it was distributed? A. Distributed to the consumers, do you mean.

Q. Yes; the kind of men who are in control, and the kind of places? A. No; because the means of distribution would be found, and those who are engaged largely in it, and who could afford to pay a high license, would find means of distribution equally well with a person who is now able to go into the business under the present conditions.

Q. Do you think that it would be apt to improve the general character of the places? A. I think that a plain license law, with a strict enforcement of it, is the best remedy that can be found, with an impartial enforcement of it under all circumstances; and in speaking in that way, I mean one that will be acceptable to all persons citizens, if you can get such a law.

Q. And you don't think that increasing the amount of money that it would cost a man to get his privilege of sale, would tend to elevate the character of the applicant, or of the places? A. In some cases it might; that is a question that I am not prepared to commit myself upon on this investigation.



By Senator McNAUGHTON:

Q. The statute you referred to would be one that would regulate the traffic? A. Regulate the traffic and the enforcement of the law impartially.

Q. If the existing law in this city and throughout the State were enforced, would there not be better results than we are now reaching?

A. I unhesitatingly say that there would; but you can't enforce this law impartially.

Q. Are you aware that the commissioners of excise in this city exact a much higher license than they do in any other city in the State?

A. I don't know as to any other city in the State; but I know some portions of the country, because the statute provides for it; in towns it is less than in cities of a certain class; it is a higher rate in cities of a certain class than in towns.

Q. But where they are allowed to exact a higher license in the country, they do not now do it? A. I am not aware of that, because I am not acquainted with the administration there.

Q. Isn't it possible to prescribe by statute the form of a bond to be taken by the excise commissioners, which if the conditions are broken can be enforced, and the amount collected? A. Of what benefit is that?

Q. I don't ask that; is it possible? A. It is possible; certainly.

Q. The difficulty now is, in the conditions, or the form of the bond?

A. In the condition of the bond, and its application under the present law.

Q. You think it would be possible for the Legislature to prescribe the form of a bond and conditions in the bond that could be legally enforced? A. Undoubtedly; there is no question about that, because they do in many other cases.

Q. Wouldn't that, if that bond were prescribed and the bondsmen knew that that bond could be legally enforced, and those bonds were enforced — wouldn't that have a salutary effect over hotel keepers and saloon keepers? A. It would to an extent, but not equal to what an enforcement of the observance of the law would do and the deprivation of a license, if the law were not observed; I think that that is the most potent remedy that is on the statute book; but I doubt whether it is applicable under the present law; I couldn't begin to tell you all its incongruities.

Q. Would it be legal to have both results follow? A. The bond?

Q. Yes. A. There is no doubt about it; the Legislature can prescribe any rule it pleases.

Q. Then you could revoke the license and also enforce the penalty?  
A. Undoubtedly.

Q. That would certainly have a salutary effect? A. It might if you intended to prohibit entirely; but the question is, is there a tendency to extend.

By Senator FASSETT:

Q. To prohibit violations? A. Yes, sir; to prohibit violations, that is what I meant.

Q. That is a desirable thing to do, isn't it? A. Undoubtedly, but the enforcement of the law itself is the better remedy.

Q. When you have a law that is incongruous and impossible to decipher, it is very difficult to enforce it? A. But you make the promise that you have a plain law that will be enforced, and an impartial law.

By Senator McNAUGHTON:

Q. I would like to have you answer the question proposed by Mr. Leventritt in regard to the manner in which the present board of excise of this city performed their duties so far as comes under your observation? A. I believe, so far as comes under my observation, that no body of commissioners or body of officers could enforce the law any better or administer the law any better than they did; my opportunities for observation have been sitting in their room at the times of consultation, reference to me of questions when there is doubt, for adjudication, and the apparent care with which they made examination of applications; they tried 369 complaints and protests last year; it would be the same as if a judge tried that number of cases upon the bench, and that would be a large average for him to try during the year, and no judge is asked to do that amount of work; and all the safeguards that can be thrown around the complainants and applicants are thrown around them; it nearly consumes their whole time, such is the extent and magnitude of this business.

By Mr. IVINS:

Q. Notwithstanding the incongruity of the law, the difficulty of the administration, the insufficiency of the inspections, the possible illegality of most of the bonds and the impossibility of enforcing the law by getting convictions on arrest, great pains appear, nevertheless, to be taken to keep the statistical position accurate and to show the number of cases tried per annum and the number of books kept in their office? A. I speak now of their report.

Q. It is the report I am speaking about too? A. Yes, sir.

Q. The statistical position on its face, as a mere matter of bones without any flesh on it, appears to be all right? A. I think it has a body as well as the bones.

Mr. JOHNSON.—The judge says they do as much work and as well as any body of commissioners could.

By Senator FASSETT:

Q. You were appointed the counsel to the board by whom? A. By the commissioners.

Q. And subject to removal at their pleasure? A. At any moment; that is my opinion.

By Senator McNAUGHTON:

Q. You have read over with some care, of course, the rules of the board of excise as they are printed in their reports? A. Yes.

Q. Has not it occurred to you that those can be revised and improved very much? A. They might; but the courts here have decided that they are not bound to observe any rules.

Q. They are not bound, but they are supposed to be for the information of persons having business to do with the office? A. They are, as well as can be framed, as a line of policy under the present condition of things.

Senator FASSETT.—That is all, judge.

Mr. IVINS.—That certainly up to the present closes the excise board. I am going to try, if the committee sits to-morrow, to secure the statement of Dr. Howard Crosby, and he is an expert in these matters who has paid a great deal of attention to them, and he has watched the operations of several excise boards in the past year and has paid a great deal of attention to the reformation in the law, and I propose to call him as an expert in some of these matters. After that I have no further witnesses to call in the matter of the board of excise. So far as the board of excise themselves are concerned, this closes that part of that investigation.

Senator FASSETT.—I think it will be a very desirable thing to have before the committee some of the distinguished gentlemen who had made this matter a specialty for a number of years. This city has quite a number of such. If counsel would bring such men as Mr. Crosby and others.

Mr. IVINS.—Such men as Mr. Crosby and ex-Judge Rollins and others who have made a specialty of this matter. I think that their opinion should be attended to this record. I think that it would be of the utmost advantage in drafting remedial laws.

Senator McNAUGHTON.—Is that Howard Crosby who was one of the revisers?

Mr. IVINS.—Yes, sir; he was one of the revisers, just as Judge Rolins was one of the revisers.

Senator McNAUGHTON.—Their opinions didn't seem to have very much weight.

Senator FASSETT.—Not with the Governor.

Mr. IVINS.—No. I think it became apparent that, although a man might have opinions with regard to high license and low license, the opinions of liquor dealers and of people who control political influence will determine very largely his opinion in regard to high license.

Mr. JOHNSON.—The comptroller is of political opinion, I will admit, you have a right to speak for. You are an expert.

Adjourned to to-morrow morning at half-past 10 o'clock.

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NEW YORK, *October 9, 1890.*

Present — Senators. Fassett, Stewart and McNaughton.

HOWARD CROSBY, called as a witness, being duly sworn, testified as follows:

By Mr. IVINS:

Q. Dr. Crosby, what is your profession? A. Clergyman.

Q. Are you a resident of the city? A. I am.

Q. How long have you been a resident of the city? A. All my life.

Q. Have you made any study, special or otherwise, of the operation of the excise laws and the administration of the excise laws of this city? A. I have given special attention to that.

Q. Will you please state to the committee what you have done generally in that regard to qualify you as an expert to discuss the situation of excise matters in the city? A. I have been for thirteen years president of the society for the prevention of crime, which has had as its special object the enforcement of the excise laws, which position has brought me into contact constantly with the excise board and with their operation; I was also appointed by the Legislature on the committee to examine into the whole question of the excise laws, and, if considered necessary, to frame a new law which would meet all cases; that committee was in session some seven or eight months, and had brought before it all matters connected with excise both in this city and in all the cities of the State, and brought in a report afterwards to the Legislature, the report including the proposed law; these are the sources of my information in regard to the matter of excise.



Q. Now, having so stated the sources of your information, will you state to the committee the results of your study of the operation of the excise laws here? A. In this city?

Q. Yes. A. The difficulty to my own mind from these observations that I have made during thirteen years, the difficulty in my own mind in this city in regard to the excise laws is, that they throw too much discretion upon the excise commissioners, and are not specific enough in the details of safeguards, consequently excise commissioners are apt to consider themselves as appointed simply for the advancement of the liquor trade, and not for the benefit of the city, and they use their discretion therefore in a very loose way.

Q. I was going to ask if you know of any specific instance of that loose exercise of discretion? A. For example—I speak now not of this particular excise board now in the city, for I have had less to do with them than any of their predecessors, but I speak in general of the excise board in this city as I have seen it for thirteen years past, with the exception of the excise board which preceded the present, which was a very exceptional board and to be counted in a different category altogether from those that preceded it and also the present one; the general example I would give, is this, that when a petitioner for a license is shown to be of immoral character, notwithstanding all the clear evidence in this regard, the board falls back on its own discretion and rejects all the testimony that has been given against the man; the law allows that; particular instances I could not give from my memory, but the books of the society of which I am president would afford many instances.

Q. Is that the society of which Mr. Whitney is an officer also? A. Yes, sir.

Q. What neighborhood do you live in? A. I live in Nineteenth street close by Irving place.

Q. You recall no specific instance where persons held by the neighbors to be improper to be licensed, or persons of an immoral character have been licensed? A. I could not recall from memory such specifically.

Q. Do you know of any of the licenses that have been granted for places on Fourteenth street, within the last six or eight years, where that rule applied? A. I can speak from memory without the book and remember that there was a great opposition on our part to the licensing of the place known as Thiess' place; the license, however, was given.

Q. What did you mean, Dr. Crosby, by the distinction which you

made in testifying between the board immediately preceding the present board and all other boards? A. The board that immediately preceded the present board grew up most admirable rules which clearly signified that they considered themselves as appointed to watch over the peace and welfare of the city primarily, and not to favor any special interest like that of the liquor interest; in consequence of these rules, there was a large diminution in the number of the licenses granted in the city, and these rules, such for example as not allowing more than two places on one corner, were rigidly observed, as they are not observed under the present board, and were not observed in the boards that preceded.

Q. Are you sure that they are not observed under the present board as far as the three corners are concerned? A. I can give one instance where I have interfered, and in spite of my interference the third place was licensed.

Q. What place was that? A. On third avenue; I think on the corner of Twenty-sixth street; I may be mistaken as to the corner; the north-east corner I heard was to have a liquor store in it and a license was to be asked for; I sent to the commisssoners a note, not being able to go personally, and stated that there were already two liquor stores on that corner and seven liquor stores within 200 feet from the corner; in spite of that protest of mine the license was granted and the place is now running.

Q. So that the license, so far as concerns that particular place, was equivalent to a revocation of the rule? A. It was a breaking of their own rule.

Q. The commissioners have testified here that their own rules in these cases do not bind them; that they are simply a declaration of policy from which a majority of the board has the right and the power to depart at any time; do you know whether that was the theory of the old board? A. It was not the theory of the old board so far as its president was concerned, who frequently told me of their determination to obey their old rules.

Q. Further than that you don't know, however? A. Further than that I do not know.

Q. As one of the commissioners appointed by the Governor under the statute to suggest revision of the excise laws of the State, did you make a special study of the laws themselves as affecting this city? A. I did.

Q. Now, will you advise this committee as to what, in your judgment, are the most serious defects of the law here, and will you give them the benefit of such suggestions as you may wish to make concerning

proposed amendments? A. My first suggestion would be that there should be a limitation to the number of saloons; as long as there is no such limitation, the evils connected with the saloon business, which is recognized by law, as I might call it, a hazardous business, a dangerous business to some extent, unless there is some such limitation made there will be no reduction, but always an increase in the number unless an excise board has, if you may excuse the expression, very remarkable backbone, for the influences brought to bear will make them almost grant licenses where impossible obstacles do not hinder; hence, I think that we ought to have in our law some form of limitation; in my own mind, the limitation of one place to 500 in the population is a wholesome idea; another feature, I think, a law should be passed in regard to the relation of the police to its enforcement, giving the police such power and putting the police under such penalty as that the open breach and defiance of the law, which now exists, could not possibly obtain any longer; that is the most flagrant of all the abuses of the present day; I may be allowed to state that my own knowledge of this abuse is not only personal observation, but also from an interview I had from five prominent liquor dealers in this city, who declared to me that they always intended to break the law, the law of keeping open on Sunday, that it was their best day, and that they would not, on any account, give up the profits they had on that day, although it was against the law; and when I told them, asked them if they did not think it was wrong to thus break the law, I was astonished at the answer made by one of the parties, "Oh, Dr. Crosby, that is but a statute law, it is not a moral law."

Q. Was there anything so confidential in your talk with these liquor dealers as to raise an objection in your mind as to the propriety of your saying who they were? A. I don't think there is, or was; they did not ask the interview to be confidential; I remember the names of three, I think, of the five.

Q. Well, will you name them? A. But I do not think I could identify them now; one's name was Cavanaugh, one's name was Kane, and one's name was — I thought I had it, it is a German name, but I can not now recall it.

Q. Do you know where Mr. Cavanaugh and Mr. Kane's places are? A. I do not; I did not at the time.

Q. Are there any other suggestions you can make in regard to the system that will be of assistance to the committee? A. I believe that if those two points were met by law, that of the discretion of the excise board and of the other that I mentioned, the regulation of the police connection with the breaches of the law where

there is great effect now, the police either not being able to or not wanting to enforce the law, I believe if those two points were well taken hold of by a law, our principal troubles would be ended in the matter; that first change which would take away from the discretion, would stop all this bogus bond business, and strengthen all the safeguards which by the laws have been inserted in the laws, but action in which has been left strangely by the law to the discretion of the board.

Mr. IVINS.— Judge Brown, are there any questions you wish to ask witness?

Mr. BROWN.— Yes.

By Mr. BROWN :

Q. Doctor, what opportunities have you had of observing the administration of the law by the present board? A. I have with the present board had very little indeed to do.

Q. How often have you visited the offices of the present board? A. I have not once been near them.

Q. Upon what do you base your observation that this present board are less efficient than the former board? A. Because I have seen the places multiply under their administration.

Q. Are you willing to state it as a fact that there has been an increase of saloon licenses under the present board as compared with the last board? A. I have gone over the figures presented by the board carefully, and judging from their figures I concluded there had been an increase.

Q. What was your standard of comparison? A. My standard of comparison was the amount of licenses that were out on the 1st day January, 1889.

Q. You limited the question as to the increase of saloons that the present board having increased the number of saloon licenses? A. That was my impression.

Q. Now, as a matter of fact, the commissioners who have been examined before this committee have testified that there has been a decrease in saloon licenses since their administration; would you say, in the face of that testimony, that your present testimony is correct? A. I have heard that statement made by them, and in conversation with the present president of the excise board he made that statement in contradiction of mine; I examined all the evidences which were given by him to me at the time, and did not see reason to change my opinion.



Q. What evidence did he furnish you? A. He gave me the record of the licenses of the present board; I do not remember exactly our course of remark; he was at my house and we conversed freely about it, and I know only that when we had completed our conversation I was not persuaded by his argument.

Q. And did you make comparisons at the time with the licenses issued by the previous board? A. I did.

Q. Have you them present? A. I hadn't them present at that interview; no.

Q. Did you retain the data or matter given to you by the president of the present board? A. Yes; for they were printed matter.

Q. And they have been offered in evidence here? A. I don't know; I was not aware of it.

Senator FASSETT.— May I make a suggestion right here. Dr. Crosby, is it not possible that you have in mind that the number of drinking places have increased, while the number of saloon licenses, so called, may have been diminished; is that not possibly the point of difference?

The WITNESS.— That is very possible; I only had reference to the drinking places — the saloons.

Mr. BROWN.— You used the words "saloon licenses" in your testimony; that the number has been increased.

Mr. IVINS.— I think the doctor said that more saloons had been licensed.

The WITNESS.— I said that more saloons had been licensed.

By Mr. IVINS:

Q. What did you mean by saloons; did you mean to use the word "saloon" in the strict technical sense as one class of places as contradistinguished from all other classes of places for which excise licenses are issued; did you mean so to use it? A. Yes; the saloons; the drinking places.

Q. The board of excise licenses a hotel? A. Yes.

Q. It grants a beer license, it grants a saloon license, but the hotel, the place that sells beer, and the saloon license, are all drinking places; now, when you used the term "saloon," did you mean to include all of the places, or did you mean to confine yourself exclusively to the one item of the technical saloon license as one classification of that board; that is what the whole controversy is now about? A. I did not think I must speak with reserve here, but I do not think that the hotel licenses were recognized in our conversation and in our computation; I am not fresh from those figures; I can only, therefore, state the general impression that was made upon me and the conclusion that I came to.

By Mr. BROWN:

Q. Can you state with any degree of accuracy the number of licenses issued by this board in excess of the number issued by the prior board of all kinds and classes? A. Well, as I recollect the figures — it is perhaps foolish for me to trust to my memory, but I will state frankly as I recollect the figures given to me on the 1st of January, 1889, by the former board; there were 6,811 licenses; that, I think, was the exact number; I am not positive, but I think it was; my calculations that were made afterwards at the time referred to showed me, as I thought, an increase of a few hundred.

Q. Are you aware of a rule existing in the present board that they will not issue a license to a new place except upon the surrender of a current license from some person who had the right to conduct business under that? A. I am aware of the rule.

Q. Are you aware that it has ever been broken by the present commissioners? A. I am not aware of it.

Q. Would it be possible for them to increase the number if that rule were enforced? A. It would not be.

Q. Isn't that a pretty fair protection to maintaining the present number of saloon licenses, at least? A. Certainly, if kept.

Q. Would you say now, in view of that act, and the maintenance of that rule, that these commissioners had increased the number of licenses in New York? A. I can only give my firm impression that they have done so; I can not tell why or how.

Q. Are you aware, doctor, that during the period of the board which you have characterized as being exceptional, many dealers were carrying on a business in New York without a license under the impression that they had the right to do so? A. I have no doubt that that is always so.

Q. Were you aware of that fact under the former board, that it existed to a large degree under the former board? A. I never was aware of the fact under any board, but I presume so.

Q. Were you aware of the fact that there were a large number of persons engaged in selling ale and beer in bottles, delivering to the houses around the city of New York, without a license? A. I never was aware of it; I have no doubt that there was.

Q. You have made particular inquiries under the other board to find out the manner of administering their duties, have you not, given the other board more attention than this? A. I gave the other board more attention than this; certainly I did.

Q. And in the course of your investigations with the other board, was the question of dealers delivering ale and beer in bottles to houses

around the city of New York inquired into or spoken of? A. It never was.

Q. Are you aware that this present board have insisted upon it that all those dealers should obtain licenses or should cease business? A. I was not aware of it.

Q. Are you aware that many of the excursion boats around the harbor of New York were conducting business without a license, and selling liquors under the old board? A. I have no doubt of it.

Q. Are you aware that this present board insisted upon them obtaining a license or ceasing business? A. I had heard that was so.

Q. Would that be one of the means of increasing the number of licenses as you speak of now? A. Certainly not.

Q. It would not do it; if it was insisted that these men should obtain licenses that would not be an increase? A. Of course not; if they enforced that law.

Q. Isn't that some data from which you would come to the conclusion that an increase of licenses were obtained under the present board, the enforcement of the law? A. I would not draw my conclusions from such data, of course.

Q. In your examination of the present law, doctor, did you consider the mandamus act of 1886? A. Oh, yes.

Q. What effect would that have upon the commissioners' exercise of discretion in granting licenses? A. I do not think it would virtually have much effect, because the courts would always confirm what the excise commissioners had done, unless there was a clear case of injustice.

Q. What would you designate as a clear case of injustice? A. Well—

Q. If a man applied for a license upon a third corner, he was a man of good moral character, possessed the qualifications to keep the business, and there were no objections to the surroundings of the location where the business was to be carried on, and the commissioners refused to grant him a license, would you consider that as an injustice? A. No.

Q. Why? A. Because they were following a reasonable law or rule.

Q. There is no limit upon the number of licenses that the commissioners may grant in this city, is there? A. No.

Q. Would it not be an arbitrary refusal to grant a license in the instance I speak of? A. To refuse?

Q. Yes. A. To refuse to grant?

Q. To refuse to grant. A. It would only be under the discretion granted by the law to them.

Q. Then why do you not consider this mandamus act as an extension of the power of the commissioners to grant licenses rather than a restriction upon it? A. I think it is simply an act to prevent injustice.

Q. That is a splendid idea, doctor, without any illustration of it; but from your standpoint now, what would be an act of injustice on the part of the commissioners to refuse a man a license? A. It would be difficult for me on the spur of the moment to propound a case.

By Senator FASSETT:

Q. Doctor, do you remember a case on which the court did act to compel them to issue a license, the only one case in which the courts interfered? A. On the corner of Fourteenth street?

Q. I do not remember where it was, I only remember there is one case, and if you remembered the circumstances it might be what you think an act of injustice? A. On the corner of Fourteenth street.

By Mr. BROWN:

Q. Did you ever recommend any persons to obtain licenses from this board or the preceeding board? A. Never.

Q. During this thirteen years in which you have been engaged in observing the workings of the excise laws? A. Never.

Q. Were you ever solicited to do so? A. Yes.

Q. By whom? A. Mr. Hams solicited me to withdraw my opposition, which would have been equivalent to indorsing his application on the corner of Seventeenth street and Fourth avenue; that is one and I presume there have been fifty, but I can not remember all their names.

Q. Now, was there ever a case in which you acted in an effort affirmatively to obtain a license? A. Never.

Q. Are you as satisfied of that as anything you have stated about the board to-day, or about this excise question to-day? A. I am perfectly satisfied that I never asked for a license or indorsed an application for a license.

Q. Or recommended anyone for a license? A. Or recommended anyone for a license.

Q. You have testified that this discretion of the present board has been very loosely used; can you give us an instance except as you say where the third corner was licensed, in which that discretion has been used? A. That is the only specific case I have in my memory.

Q. You charge a loose discretion from that case alone? A. One single case by a board of that kind would make me consider a board of that kind a very loose board.



Q. In the course of your examinations have you ever taken occasion to examine the decisions in regard to the duties of the board having reference to these rules that you speak of? A. I suppose I have in the course of my examination into the whole matter of excise; I do not recall many particular examination of that kind.

Q. Have you during that examination ever came across a case in which the courts have decided that the commissioners are not bound by these rules, and if the applicant is a fit and proper person to grant a license to, the license should be granted? A. I have not seen any such decision.

Q. Then your examination has not been exhaustive upon the legal question? A. I am not a lawyer, sir.

Q. But you have given a good deal of attention to this, its legal phases as well as its moral phases, have you not? A. As far as my untutored mind could go.

Q. We will accept that; you helped to frame the bill that was presented to the last Legislature, did you not? A. I did.

Q. Were there any legal questions presented or discussed during the time that that was under consideration? A. A great many.

Q. And reference made to the legal effect of each provision of the statute as it was presented? A. Yes, sir.

Q. And were these various decisions considered with reference to the framing of that law? A. They were.

Q. But you never came across this case that I have mentioned before? A. The peculiar legal matters that came before the commission were assigned to a committee of lawyers, of which there were four, and of whom I was not one.

Q. And what part of it did you suggest? A. What might be considered the parts having special reference to law and order — I mean to say to the order of the city — peace and order of the city.

Q. Well, what provision of that law did you suggest which you believed would insure peace and order for the city? A. It would be impossible for me to take out of that law any particular item that I suggested; I suggested many, and I joined with others in suggesting many, but it would be an utter impossibility for me to take up the particular points of which I was the suggestor.

Q. Can you recall even a suggestion made by you which was incorporated in this proposed law? A. I could not on the spur of the moment.

Q. Were you advised that you were to be examined before this commission to-day? A. I was not advised until yesterday.

Q. At what time yesterday? A. I forget the hour; I think it was toward evening; yes; it was between 5 and 6 o'clock last evening.

Q. Did you take any occasion to refresh your memory as to the operations of this law, or the effect of the law that you proposed? A. I did not; I have not had a moment's time.

Q. Going back again to the present commissioners; doctor, did you recommend any person to be retained in the employ of the board? A. I did.

Q. Who was that gentleman? A. Charles E. Gildersleeve.

Q. Is he retained there now? A. I think he is.

Q. And you think he was a very efficient and proper person to be retained by the board? A. I think he is a man of the highest character.

Q. And you would feel very certain that anything that would come under his notice in the way of complaints, or otherwise, would be properly presented for prosecution? A. I do.

Q. Do you know what position he occupies in the present board? A. I think it is a sort of — I don't know what the name is — under chief inspector.

Q. His duties are to investigate complaints for violation of the law; that is the position he now holds in the present commission? A. I did not know the exact character of the position.

Q. And you have faith enough in the man to believe that he would faithfully perform the duty assigned to him? A. I have no doubt he would faithfully perform any duty he undertook.

Q. And you would be satisfied that Mr. Gildersleeve, in making a report, would not be influenced by person or party in his actions? A. Certainly not.

Q. Did the president of the present board ever advise with you with reference to the administration of the excise law in this city? A. He has had several conversations with me in regard to it; I hardly think in the way of getting my advice.

Q. Opinions? A. There have been more statements on his part, what he intended to do and what he was doing.

Q. And did they meet your approval, the suggestions he made? A. His own views seemed oftentimes to be exceedingly good, and I approved of them.

Q. Did they differ in any particular from the views expressed by the president of the former board in the administration of the law? A. What he has stated to me did not differ, but what the president of the former board stated to me in regard to general matters are far more complete than anything the present president did.

Q. And what was the difference between what the prior president did under the former commission and the present president under this commission? A. The former president, the president of the excise board previous to this one, very frequently asserted that he believed the excise board was appointed to restrain and restrict; such a statement I have never heard from the president of the present board, only of his intention to observe the rules of the board, for which I commended him.

Q. Any other points of difference? A. I do not remember any other special points.

Q. Those were the only points of difference suggested by the president of the former board, and the president of the present board, that you can now recall? A. Yes; that includes a great deal.

Q. Were the rules different under the former board from what they are under the present board? A. I don't know; I have heard that they kept the same rules.

Q. Have you ever known an instance under the former board in which the rules were not observed? A. I do not remember any.

Q. Have you ever made an effort to find out whether they had been observed or otherwise under the former board? A. I do not think I ever have.

Q. Therefore you can not tell, as a matter of fact, whether the former board have ignored any of their rules adopted by them? A. Oh, I could not testify as to that.

Q. Now, can you specifically state any point of difference of administration under the law as it exists under the present and under the former board in which the present board differs from the former, except the conclusions you have given us, any specific act? A. No; I have nothing further; I must say, if you will allow me, that the society which I represent has on its records what, of course, I personally can not remember and could not personally vouch for.

Q. Well, the records are not here, and you can not vouch for them, so they are not to be considered? A. No.

Q. You said in your examination by General Ivins that it was necessary for the commissioners to have backbone to enforce this law; what do we understand by that expression, doctor? A. I mean that when men come to me, if I am an officer, and try to bring political influence to bear upon me, I ought to have sufficient courage to say to them "no."

Q. Can you instance a case in which the present commissioners have been influenced by politics? A. I have not accused them of it.

Q. But the inference to be drawn is that it is so, because they have not backbone, is that it? A. I have not accused them of not having backbone, I merely stated as a general thing that a law ought to be so framed that the execution of it would not be trusted to a commission that might not have backbone; I made no charges against anybody.

Q. And that is not to be applied to this present board? A. No; I apply it to none.

By Mr. Brown:

Q. Would it be possible to leave any administration, under our form of government, out of politics? A. Politics has two meanings; there are good politics and bad politics.

Q. Are you correct in the statement that politics has two meanings, a good and bad? A. Yes.

Q. What is the meaning of the word politician or politics? A. A man who attends to affairs connected with the State.

Q. Does that not apply to all officers who may be charged with the enforcement of the laws of the State? A. Yes.

Q. And if commissioners were appointed or elected for the purpose of administering the excise law, under whatever form, they would still be politicians; would they not? A. In the good sense.

Q. In the good sense, or in any sense? A. Well, in the bad sense means tricky.

Q. The bad sense, doctor, is not presumed; we all must assume that the laws are faithfully executed until the contrary appears, and you have not given us an instance to-day in which the politicians who now fill the excise board have failed to fulfill the law, as far as your testimony has presented itself? A. We can all sometimes smell an evil where we can not see it.

Q. Do you think this present committee or your own evidence has found the effluvia of bad politics in this administration. A. I think the effluvia has not been agreeable.

Q. In what instances and where did it spring from? A. Well, there is a general feeling throughout the community, I think.

Q. Will you condemn a man on general principles; that he ought not to exist? A. Well, I think I would; some men.

Q. If you would, what would be the necessity of framing a law to guide them in the administration of the excise law, if they are to be condemned or governed by general principles of the thought of an individual? A. Well, I don't like to enter into a psychological discussion unless it is necessary.



Q. Well, it seems to be entirely of that character that we have had here to-day, because I have not found any facts upon which to base a conclusion, of maladministration.

By Mr. LEVENTRITT:

Q. Will you just read that statement in the report of the present commission, and see whether you take exception to that, or whether that does not indicate a decrease in the number of drinking places? [Handing pamphlet to witness.] A. Yes; I had noticed that before; I went through a series of calculations at the time; the details are not now with me, but I differed from that, and instead of making it a decrease of seventy-eight I made it an increase of 200 or 300, but I have not got my calculations with me.

Q. You observe through, from the report of the present commission made to the mayor at the close of last year, they claim that the decrease in the number of drinking places in this city was seventy-eight; do you not? A. Yes, sir.

Q. Now, that is a result of a mere ordinary mathematical calculation, concerning which there can scarcely be a difference of opinion; is it not? A. I should think so.

Q. How does it come, then, that having an official report indicating a decrease of seventy-eight, you nevertheless venture to state that in your opinion the number increased? A. I think the discrepancy may exist, though I have not now the data to be sure of it, from a different view of the different classes; in my present unprepared condition, I can not verify my opinion on the matter.

By Mr. FASSETT:

Q. Counsel seems to have been somewhat disappointed that you could not recall a long list of specific instances of bad administration under the present board; you have not followed closely the testimony given before the committee? A. I have not.

Q. You do not recall the testimony given in reference to Gom-bossy's place, and Thiess' place and the Slide and the Sixth Avenue Hotel and other such places? A. No, sir.

Q. And you do not recall the reports that we made on the inspection in reference to them? A. I have heard none of them.

Q. And do not recall the evidence given by the commissioners themselves as to the helplessness of the commissioners in their dependence on the report of the inspectors? A. No.

Q. You did not have that in mind? A. No.

Q. If I understood you correctly you recommend as good features

to embody in remedial legislation a limit in the number of saloons?

A. Yes, sir.

Q. A limit to the discretion of excise commissioners? A. Yes, sir.

Q. Stricter police regulations? A. Yes, sir.

Q. More severe penalties for breaches of the law? A. Yes; decidedly.

Q. That is, substitute imprisonment for fine? A. Yes.

Q. And revocation of a license for fine? A. Yes, sir.

Q. You did not say anything, doctor, as I understood you, about whether you would change the rate or degree of the license fee? A. I think the change of the license fee is comparatively a small matter if those other matters be thoroughly attended to in the law.

Q. That is simply fundamentally a question of revenue, then? A. Yes.

Q. Would it have any effect at all, things remaining as they are; would the mere increasing of the license fee have any effect in improving the administration, do you think? A. I think it would certainly reduce the number, and therefore enable the police, if the police were faithful, to keep better guard against the injuries done oftentimes by such places.

Q. That is, if the cost of getting a license were increased, you would think the naturally more conservative spirit would control? A. I think so; I think that they would be more careful to observe the law and that there would be less danger to the public peace.

Q. In giving a limit that you consider a proper limit, you place it as one saloon or one drinking place to every 500 inhabitants, would that be ample, think you? A. I think it would be a grand step to take, and if it proved satisfactory to the peace of the city, it would be a sufficient step; if it proved advantageous, but still with an invitation to make the number less, I think then it would be a good step towards the second step.

Q. And what would the second step, doctor, be — to make it one to 1,000 or one to 600? A. One to 600, one to 700, and so on until we got to a position where the peace and order of the city would be secured.

Q. Doctor, you do not advocate the practicability of the abolition of the traffic? A. Not in the slightest degree; I have no sympathy with that idea.

Q. Your efforts move in the direction then of restriction and control? A. Entirely.

Q. Of control? A. Control; law and order.

Q. The mere number of places then you think is subordinate to the manner of controlling and regulating the thing? A. I do; but I

think the number of places is closely connected with the power to control.

Q. But assuming that the regulation of the traffic was complete, that inspection did determine and secure absolute good character in the dispensers, or those engaged in the traffic, then the number of places would be a question of subordinate interest? A. I think so.

Q. Now, to come back again to your limit of 500; there are something over 8,000 saloons and drinking places, according to the report?

Mr. BROWN.—May I suggest to the Senator that that 8,000 includes all classes of places; places where beer is bottled and sold, and all other places.

Senator FASSETT.—Yes; wherever a man can quench his thirst by getting a bottle of beer. In round numbers there are about 8,000, and according to your scheme of one to 500, the population should be 4,000,000, and in round numbers we have 2,000,000; is it your judgment that there are about twice too many saloons? A. Fully twice too many.

Q. Fully twice too many? A. I would back that up by saying that in walking through Third avenue this morning, I noticed on many blocks three saloons, on some four, and I think on one five; that is the basis of my remark, that I think half the number would not be a sufficient reduction for the wants of the city.

Q. But this opinion is always to be taken in connection with your view that the chief point is thorough and efficient regulation and control? A. That is it; that is it.

Q. It is within the power, is it not, as you have read the law, of any board of commissioners under the present law, to secure just this limitation you speak of? A. I think it is; but I think it is too much to expect of human nature to do it.

Q. Because you think the pressure for places is too great? A. Yes.

Q. Doctor, have you thought of any better method of determining the facts as to the good character of an applicant than the one now in vogue? A. Well, the one now in vogue, as I understand it, is the correct one, if it were only prosecuted to the end; if everything that is connected with the applicant were really looked into, and searched into, I think that would suffice, and I think the neighborhood of the place should be very thoroughly canvassed in regard to a new position.

Q. I understand your judgment to be then, Doctor, that really the trouble with the present situation is that of administration? A. It is.

Q. Would it be possible, think you, to devise any system of itself so perfect, that its effects could not be utterly destroyed by bad

administration? A. I think the bad administration could be prevented by a law with sufficient rules of enforcement, especially in the matter of penalties.

Q. Well, then, in the last analysis it comes down to this, does it not, that good government in the excise department, as in other departments, is primarily a question of good character? A. I think so.

Q. And that is the one point to endeavor to determine in an applicant and in an officer? A. I think the laws should be framed in such a way as to meet that case much better than they do now.

Q. Had you in your mind crystallized any definite suggestion as to the method by which those effects could be produced? A. I think that the law proposed by the commission appointed by the Governor under the statute was a law eminently fitted to meet precisely the cases referred to, and to make the excise system a thorough one.

Q. Then to sum up, you substantially recommend as embodying your best judgment, the conferees' bill? A. Yes; the commission bill.

Q. The modified commission bill or the original one? A. The original one.

By Mr. IVINS:

Q. Did that bill of which you speak apply to all cities in the State alike; was it a general bill, or did it take into consideration the difference in conditions between New York city and other cities and towns in the State? A. It made a difference.

Q. The bill itself made a difference? A. Yes, sir.

By Mr. BROWN:

Q. In answer to a question by Senator Fassett, you said that the penalties for violation of the law should be increased; are you aware of the penalties which now could be inflicted under the present law upon a license for violating the law? A. Yes; that could be.

Q. What are they? A. They can be fined, if convicted, or imprisoned.

Q. Anything else? A. They can lose their license.

Q. Anything else? A. I don't think of anything else.

Q. If they have given a bond, can not the penalties on the bond be recovered? A. Yes, sir.

Q. That is an additional penalty? A. Yes, sir.

Q. Are you also aware that there is a statutory penalty? A. Yes, sir.

Q. That is four penalties? A. Yes.



Q. Which a licensee under the present law incurs, if he violates the law through ignorance, willfully, or by a misconception of the law? A. Yes.

Q. How would you propose to increase those penalties? A. I would have the laws enforced, and, moreover, for a second offense I would have the man sent where his hair would be shaved and his striped breeches would be put on.

Q. Under the present law a violator of the excise law can be put in prison, if the court should so adjudge; can he not? A. Certainly; what I want is a law to make them do it.

Q. It is a misdemeanor? A. It is a misdemeanor.

Q. It is a misdemeanor under the present law? A. Yes, sir.

Q. And if enforced they can be sent to jail A. Yes, sir.

Q. How much more jail could they have? A. I would have a law which would compel the sending to jail for the second offense.

Q. A life sentence, doctor? A. Oh, no.

By Senator FASSETT:

Q. I understood your recommendation to be that the fine part of the penalty should be abolished and that a punishment for any breach of the law should be by imprisonments? A. I should be perfectly willing to let a man have one chance with a small fine, but I think the second offense should always be punished with the greatest severity.

By Senator McNAUGHTON:

Q. Who composed the committee of which you speak, appointed to revise the excise laws? A. Ex-Surrogate Rollins was a member of it, Mr. Tollman was another, Mr. Kruse, from Cattaraugus, was another, Mr. Smart was another and Mr. Max Stern was another; I think I have given them all and yet I am not certain.

By Mr. IVINS:

Q. Was not Judge O'Brien a member of it? A. Oh, Judge O'Brien; yes, sir.

By Senator McNAUGHTON:

Q. Was the report unanimous? A. No; I think there was only one dissenting voice, and that was Mr. Kruse who made a report of his own, and I think Mr. O'Brien added to his signature a difference of opinion in regard to some little matter.

By Senator FASSETT:

Q. Do you recollect the point upon which Mr. Kruse differed with the commission? A. I think Mr. Kruse differed altogether with

the commission from the very bottom; he seemed to my mind to favor nothing that was not absolute prohibition.

By Senator McNAUGHTON:

Q. Your report was accompanied by a bill submitted to the Legislature? A. Yes, sir.

Q. What became of that bill? A. That bill was taken into committee and manipulated and altered and then put forward, and vetoed by the Governor.

Q. But it was changed substantially, was it not? A. It was changed I think on two or three important points; it was not the bill I signed.

Q. Did you approve of the change made by the legislative committee? A. I did not.

By Mr. IVINS:

Q. Do you not think there is a fair ground for difference of opinion on that subject, however? A. Oh, certainly.

Q. And that it is quite possible that the bill as amended in the Legislature might have been even a better bill than that which you formulated? A. It might have been, as matter of opinion, either would have been admirable.

By Senator FASSETT:

Q. Where were the points of difference between the two bills, or don't you recollect? A. I don't hardly remember.

Q. One was on the civil damage question, was it not? A. I think not; I may be mistaken, I would not like to say.

Q. And was not one on the question of licensing steamboats and cars, some trivial point? A. I would not like to commit myself; I don't remember really; they have gone out of my mind.

By Senator McNAUGHTON:

Q. When was that report submitted to the Legislature? A. If I recollect right it must have been in January, 1889.

Q. Well, in the course of your testimony this morning you have referred to a bill of last winter, have you not? A. No; I did not refer to the bill of last winter.

Q. You only referred to the bill that accompanied your report? A. Yes; the commission bill.

By Mr. IVINS:

Q. Was not this essentially the difference between the commission bill and the bill as it came out of the legislative committee, viz.: That it was contended that there were certain things in your bill which

might have a tendency, sooner or later, to raise the question or at least involve the doubt as to whether licensees might not acquire something like a vested interest in the business? A. Yes; that was one point.

Q. And that everything of that kind that was in your bill was stricken out of the hands of the committee? A. I recollect well that that was one point; there were one or two others.

Q. Was not that really the most important point of difference? A. I suppose to a legal mind that was a very important point.

Q. That point was eliminated from the bill as sent by your commission? A. Yes, sir.

Q. And as the bill came out of the committee, no such questions as that could ever have arisen? A. No, sir.

Q. And to that extent do you think that was an improvement or not? A. Well, it requires a legal mind to make a decision there; I could not express an opinion.

Q. I mean in this particular: Do you think it is an improvement or not to absolutely remove any doubt from the law on the point of the possibility of a vested interest in the business? A. Well, I may show myself a very poor hand at the law, but I say my sympathy was on the side of the vested rights.

Q. It was? A. Yes, sir.

By Senator McNAUGHTON:

Q. Well, doctor, you have continued your observation on the liquor traffic and excise business since you have submitted your report? A. Yes, sir; I have.

Q. Is there anything in your mind now that you would advise the committee to add to that report, or would you change the report if you were to submit it at the incoming Legislature? A. I personally should like to submit just that very same bill again.

Q. And the same recommendations? A. The same recommendations.

Q. Can you give the committee an instance where proof was given to the present excise board of the bad character of the applicant where a license was granted by the excise board? A. No; I know of no specific case; I only said the thing might occur under certain circumstances.

Q. Do you know of any particular in which the rules adopted by the present excise board differed from those which were adopted by the previous board? A. I do not; I have reason to think they are the same.

Q. When was your interview with President Meakim? A. I have had several interviews with him since he entered the excise board.

Q. I mean the one where you and he compared notes as to the number of licenses? A. I would not be able to say at which one that particular thing occurred; I do not recollect; he has met me frequently; I say frequently, several times since May, 1889, and talked over matters; I can not remember when this was.

Q. Have you the data at your home upon which you based the opinion that there are more licenses granted by the present board than by the previous board? A. I think I could find my data and my calculation.

Q. Will you please furnish that to the counsel of the committee? A. I will try and find it and furnish it; it must have been before the summer vacation, and it may be difficult to get at the papers, but I will try my best to do it.

Q. There will be ample time? A. I will try my best to do it.

Q. It might be very valuable, because there seems to be a direct difference of opinion between yourself and the commissioners? A. There is.

Mr. BROWN.—The official reports can be furnished to the committee.

Q. The point of difference between the administration of the prior board, the board that immediately preceded this, and this board was that that board had a tendency to restrict the number of licenses; is that the idea? A. That was the statement of its president to me very frequently.

Q. And the present board has a tendency to increase the number of licenses; is that the point of difference in your mind? A. Yes; that is what I have been led to think.

By Senator FASSETT:

Q. Do you know whether the preceding board was in harmony with the president? A. It fluctuated; one of the members of the board never was in harmony with the president; the other was half the time.

Q. Do you know how it is with the present board? A. No; I know nothing from personal observation of the present board.

By Senator McNAUGHTON:

Q. Has your society made any protests to the present excise board in regard to revoking or against the granting of licenses, or petitioned that licenses granted by them should be revoked, in any instance? A. I have no doubt many cases have been, but committees to which I do not belong have had charge of that matter; I know nothing, as president of the society, in regard to details.

Mr. IVINS.—Mr. Chairman, that concludes the excise matter for the present, and it certainly will not be resumed, if at all, for some time,



and then possibly only for the purpose of making good certain lacunæ in the formal evidence.

Senator FASSETT.— Well, I suppose we can assure Mr. Leventritt and Mr. Brown that the question of the excise commission will not be taken up without due notice to them.

Mr. IVINS.— Under no circumstances.

Senator FASSETT.— The committee would feel very loth to go on in their absence.

Judge BROWN.— And in the meantime we may hand in the reports of the various boards as to the number of licenses, if we desire.

Senator FASSETT.— Anything in the way of official testimony.

Senator McNAUGHTON.— Judge Brown, if you would group together in a table the licenses granted each year for three or four or five years.

Judge BROWN.— I will have it done, sir.

Senator McNAUGHTON.— And, Mr. Brown, in that connection give the number of employes each year, and the amount paid for salaries each year, with the amount received for licenses.

Judge BROWN.— Yes.

Senator FASSETT.— We have all that, I think.

Judge BROWN.— You haven't it grouped.

Mr. IVINS.— Before taking up the matter of the county clerk's office, I want to call the attention of the committee to the main features, from an administrative and financial point of view, of the legal status of the office. As the result of some investigation and some agitation here, there was a law passed in the year 1884, known as chapter 299 of the Laws of 1884.

Senator FASSETT.— That was one of the laws recommended by one of the so-called Roosevelt committees?

Mr. IVINS.— Which was one of the so-called Roosevelt committee laws, which essentially modified the theory of the payment for services rendered in that office. Theretofore the office had been, as other county clerk's offices in the State, were fee offices to this extent, that there was no official salary paid directly out of the city treasury, but that the county clerk paid himself and reimbursed himself for his expenses and charges and the employment of his subordinates by the income of the office from fees.

Senator McNAUGHTON.— And those fees were fixed by statute.

Mr. IVINS.— Those fees were fixed by statute. This law as passed, provided by section 1, that all the provisions of law now in force regulating the salary, fees, perquisites and emoluments of the city and county clerk of New York, now in office, shall remain in full force and effect until the expiration of his present term of office.

That, consequently, made the law applicable to the term of office, as I recollect it, of Mr. Flack and the term of office of the present incumbent. Section 2 provided that hereafter the salary of the county clerk should be at the rate of \$15,000 per annum as his compensation. Section 3 provided that all fees collected should be accounted for and paid over.

Senator FASSETT.— To the chamberlain or the comptroller?

Mr. IVINS.— That reads as follows: I do not think you will need take those quotations that I make here, Mr. Stenographer. Just simply refer to the section [Mr. Ivins reads section referred to]. And I call particular attention to the statement, “all the fees, perquisites and emoluments, including fees for searches,” and I call your attention to the words, “or which he may receive for any and all official services.” Section 3 regulated the fees to be charged in certain cases.

Senator McNAUGHTON.— What are you reading from?

Mr. IVINS.— I am reading from the statute, chapter 299 of the Laws of 1884. Section 5—and that I call your particular attention to, because there was a subsequent law which bears upon that—provided: [Reads.] He was required to give an official bond. Section 7 provided for the manner in which the fees should be accounted for, the account of fees kept, and what those accounts must show. Section 7 required the transcript of such account should be made and filed with the comptroller, in form as prescribed by the comptroller. Section 9 provided the penalty for not accounting for and paying over all the fees, the penalties applying both to failure to account as well as failure to pay over. And then section 10 was the repealing act and section 11 the enacting.

Senator McNAUGHTON.— Mr. Ivins, as I understand it, the county clerk of this county died recently.

Mr. IVINS.— The last elected incumbent of the office died within the past month.

Senator McNAUGHTON.— Yes. Well, you do not intend to have the investigation refer to the conduct of his office?

Mr. IVINS.— So far as Mr. Reilly is concerned, I intend to conduct no investigation at the present time, referring in any way to his individual or personal acts; but inasmuch as it is necessary to investigate the conduct of the office generally, it will be necessary to investigate it at one time or at another. It is immaterial whether it be done now or whether it be done hereafter entirely, particularly in view of the fact that I do not foresee that anything can arise in this investigation, so far as I have any knowledge, that can, in any way, reflect upon Mr. Reilly's personal character.

Senator McNAUGHTON.— Would it not be better to have that investigation postponed to some future time, his death being so recent; the affairs of the office must be —

Mr. IVINS.— The investigation, as I propose to make it, is not an investigation of Mr. Reilly's personal administration of the office. It is an investigation of the system prevailing in that office. It was supposed at the time that this —

Senator FASSETT.— And that can be illustrated by the administration of his predecessors.

Mr. IVINS.— Can be illustrated by the administration of his predecessors, and by our accountant from the record of the account books, showing the volume of work done in the office during the present term. In other words, a transcript of the accounts themselves will bring out many of the marked features of the system. The thing which has particularly attracted my attention to this office is the fact that it was known at the time that the law of 1884 was passed that that was to its incumbent one of the most lucrative offices in the State of New York. The theory, as I understood it then, and as I understood it from the members of that committee themselves, and from others who advocated this legislation, was that if that were made a salaried office, in the first place, it would not be so important a political prize as it had theretofore been; and, in the second place, it would return large sums of money to the city treasury, while at the same time bring a proper compensation to the incumbent in the office. Now, as a matter of fact, for a while the office showed a profit to the city as incident to the change in the law. As it is to-day, the figures of the accountant, as I will prove, will demonstrate the fact that the city is financially no better off because of that enactment of the law of 1884; but, as a matter of fact, is very considerably worse off, because the office, instead of being self-supporting, has now become a decided burden. And it is for this investigation to discover, if possible, why this is the case; and the examination of the administrative details of the office, the volume of work done in the office, the manner in which the work is done, the manner in which the appropriations are made, and the manner in which the appropriations are expended, will bring out those facts; and if the Legislature erred and this office has become burdensome to the city, it is a matter of the most importance to inquire why and how the error can be remedied; or, assuming that it be no error, then how the burden can be taken off the city, and those were the points which were, in my mind and of which I spoke, not so much in detail, when it was decided by the committee, at its executive session, to take this matter up, and because of which I have gone on prosecuting my

inquiries, and getting my documentary evidence and the evidence of the accountant in proper form.

Senator McNAUGHTON.—Has the Governor appointed a clerk in place of Mr. Reilly?

Mr. IVINS.—The Governor has not; but by the *ipso facto*, at least *ex vi termini* of the statute, the deputy is the county clerk until that vacancy is filled, with all the powers of the county clerk, in every regard.

Senator FASSETT.—Mr. Ivins, is there anything in that statute with reference to these expedited fees?

Mr. IVINS.—That is the next statute to which I want to refer. The law which I have read was chapter 299 of the Laws of 1884; the next statute which was passed, as bearing upon these particular matters, was chapter 235 of the Laws of 1886. That is an amendment to the law of 1884, as section 1 recites. Under the law of 1884 it had provided for searching all other matters of record; that is, all other than that, dockets of judgments and decrees, and transcripts of decrees; he may be required to search for five cents per annum for them respectively; for returning in his search any judgment or other matter of lien, five cents each. As to the effect of the volume of fees received that law made, it will be necessary to look to the accounts.

Senator McNAUGHTON.—The receipts would be less.

Mr. IVINS.—The receipts would certainly be less; could not possibly be more, as incident to the operation of the statute. They might be more, notwithstanding the decrease, as incident to the increase of business.

Senator McNAUGHTON.—Exactly.

Mr. IVINS.—But as incident to the operation of the statute alone they could not possibly be more, and as incident to that they must certainly be less, the main item of change being the reduction from fifteen cents to ten cents in the matter of searching of dockets, for judgment of decrees and transcripts of decrees. So much for the matter of the regulation of the amounts of fees to be charged. "Section five of said act is hereby amended so as to read as follows: It shall be the duty of the said clerk, on the receipt of any order directing searches of his office to be made, to cause the same to be made without delay, and to certify the correctness of his return within ten days of the receipt of the requisition therefor." That is practically identical with the first part of the old section 5, except that the time was extended from five days to ten within which to make the return. "And he shall be held legally liable for all damages," etc. He was under the old section. [Reads remainder of



act.] Now, that is the law, as I understand it; and if we are in error in that regard, the present occupant of the office can, of course, set us right.

Senator McNAUGHTON.—Has the present occupant been notified of this examination to-day?

Mr. IVINS.—He is here. Oh, yes; Mr. Scully is here. Not only that, but in the absence of Mr. Flack, whom we have been unable to secure service on. That is possibly due to the fact that the subpoena-server went out only yesterday, and Mr. Flack appears not to be in the city. Mr. Gilroy, Mr. Flack's deputy while in that office, is also in the court-room.

HENRY M. TATE, recalled, testified as follows:

By Mr. IVINS:

Q. Mr. Tate, have you made a thorough and exhaustive examination of the books and papers of the county clerk's office? A. Yes, sir.

Q. And as touching what particular matters? A. First, as to the pay-roll of the county clerk's office for 1890; that I have prepared, based upon the salaries paid for the month of March, 1890, as shown by the pay-rolls in the comptroller's office.

Mr. IVINS.—Let me interrupt you at that point to say that I will put in, in the reports of the comptroller, which will all be part of the evidence here, for the last six years, the aggregate of the pay-rolls, because there is no necessity for having them in detail as to persons, the aggregate pay-rolls running back through the entire period to 1884, which is our point of beginning.

Senator McNAUGHTON.—And the number of persons employed.

Mr. IVINS.—The number of persons employed.

The WITNESS.—Then I have also added to that—this pay-roll is the pay-roll, what I think may be called the pay-roll of the employes in general of the county clerk's office; that is, those who are employed directly upon what may be called county clerk's work, with the exception, this includes the salaries of the law clerk and the equity clerk. Their names appear upon the pay-roll.

By Senator FASSETT:

Q. In making up this pay-roll, you have assumed that the wages paid for the month of March were duplicated twelve times a year? A. Yes, sir.

By Senator McNAUGHTON:

Q. Is that assumption correct; have you examined it? A. No, sir; it is not absolutely.

By Mr. IVINS:

Q. It is not correct to cents? A. No, sir; it does not follow that every man upon this pay-roll received the full monthly salary, because he may not have worked the full month, but this is prepared upon the basis of the salary that he received for that month, as representing the salary he would have received for the year, if he worked during the whole year.

Q. And as upon the basis of the estimates and appropriations for that purpose? A. Yes, sir.

By Senator FASSETT:

Q. Is there any reason why the month of March is an unfair month; that is, would it show too small an average or too high an average? A. I think it is — that the average — it is very close to the average; I can tell you why I took the month of March; this part of the work was prepared in the spring, at a time when I thought you probably would take up the county clerk's office on the completion of the excise board, and I didn't know how soon it would be completed.

By Mr. IVINS:

Q. It was taken while the committee was at work, and when it might be necessary to take this up, and that was the actual month at that time? A. March was the latest month, and I have not changed it, because the pay-roll has not materially changed.

By Senator FASSETT:

Q. Would not vary then materially one way or the other? A. No, sir.

Q. No matter what month you took the transcript in? A. No, sir.

By Mr. IVINS:

Q. The only variance would be this, would it not; that in one month there might be more absences because of illness or because of excuses or something of that kind, and, consequently, in one month there might be not quite so much service by days put in as another? A. Yes; there is a possibility that some new clerk may have been appointed; it is possible that some one may have resigned.

By Senator McNAUGHTON:

Q. I suppose there are months when there are more clerks employed in that office than others, the business being greater? A. I think not.

Mr. IVINS.—That certainly would not be the case with the month of March, would it, Mr. Gilroy?

Mr. GILROY.—Not likely.

Mr. IVINS.—So that the month of March is a fair average?

Mr. GILROY.—Fair average.

By Mr. IVINS:

Q. Now go right on with your statement? A. Perhaps I can tell you exactly the pay-roll for each month, if you wish it, from the 1st of January, 1890, right down to date.

Senator FASSETT.—It is not your idea to have Mr. Tate go all over this in detail now?

Mr. IVINS.—No. Just simply state what his purpose is and then I will base some questions on this for the purpose of bringing out specific points I want to have your attention called to in the first instance. The rest you will get in reading it in the record.

The WITNESS.—Besides the names of the persons who might be called the regular employes of the county clerk's office, and who appear upon the pay-rolls of the county clerk's office, I have added also the names of two employes whose names appear upon the pay-roll of the clerks of the Supreme Court; namely the law and the equity clerk, because they are practically assigned to duties in the county clerk's office, and in that respect would be regarded as part of the working force of the office. Then I have prepared a statement showing the sources from which fees have been received by the county clerk from the 1st of January, 1886, down to the 1st of January, 1890. That is in this report. In another report I have extended it down to date. Then I have also prepared a statement showing the amount paid to the various employes of the county clerk's office, including, as before, the law and the equity clerks, from the beginning of January, 1886, down to the 1st of January, 1889, and I also have prepared a supplementary report showing the salaries paid from the 1st of January, 1890, down to date; that is, to the 1st of October, 1890. Then I have also prepared statements showing what the total receipts for fees from the county clerk's office were, not including the extra searches, the trial and stenographers' fees; the expenditures for salaries for each year, showing the gain or loss to the office as between the salaries paid and the fees received. I think that, in general, embraces the contents of the first paper submitted to me by Mr. Ivins.

By Senator FASSETT:

Q. This would show that in 1886, the receipts of the office, over and above the cost of administration, were about in round numbers, \$32,000? A. Yes, sir; that included the extra searches.

Q. And in 1889 the receipts of the office were, as over against the expenditures of administration show a loss of \$38,000? A. Yes.

Q. So that would make an apparent difference of about \$60,000?

A. Yes, sir.

Q. Between 1886 and 1889? A. Yes.

Senator McNAUGHTON.—How do the receipts compare?

By Senator FASSETT:

Q. Now, the receipts in 1886 seem to have approximated \$129,000?

A. Yes, sir.

Q. And the receipts in 1889 seem to have approximated \$58,000?

A. Fifty-nine.

Senator McNAUGHTON.—Seventy thousand less? A. Yes, sir.

By Mr. IVINS:

Q. I think it would be well to study a little in detail; in 1886, for instance, it appears from this that the searches, the form of return of which, he says, see Exhibit 1; what items does Exhibit 1 refer to, and what items are covered in the class of searches which you have itemized at the head of your column? A. Exhibit 1 represents searches.

Q. Does it represent all searches? A. No, sir; regular searches, not the extra searches which are expedited.

Q. But it means all searches except those which are expedited? A. Yes, sir.

Q. Does that item as you have stated it here, comparatively, from the years 1886 to 1889, include the expedition fees as well as fees in all other cases? A. Exhibit 1 is a form of return made by the county clerk for searches; that exhibit, as returned to the comptroller does include the extra searches; in my statement I have separated the regular searches and the extra searches so that in point of fact the entire exhibit is in the report; but the extra searches are not included — but I have separated the two, so that the regular searches and the extra searches both make up Exhibit 1.

Q. In 1886, it appears from this that the returns of the office for regular searches were \$87,000? A. Yes, sir.

Q. In round figures? A. Yes, sir.

Q. And for extra searches they were \$13,000? A. Yes, sir.

Q. In 1887 the returns from extra searches were \$88,000? A. Yes, sir.

Q. Showing an increase over 1886; and from extra searches were \$17,000, showing a further increase over 1886? A. Yes, sir.

Q. But in 1888 the returns from regular searches declined to \$40,000? A. Yes, sir.



Q. Which was somewhat less than one-half? A. Yes, sir.

Q. Of the amount received in the years 1886 and 1887; and the returns from extra searches were \$11,000, which was a very material decrease from the year 1887? A. Yes, sir.

Q. In 1889 the returns from regular searches were \$20,000? A. Yes, sir.

Q. Or one-half of what they had been in 1888? A. Yes, sir.

Q. And only one-quarter of what they had been in 1887? A. Yes, sir.

Q. And the returns from extra searches were \$5,000, or somewhat less than one-half of what they had been for the same item for the previous year? A. Yes, sir.

Senator FASSETT.— And one-third of what they had been in 1887.

By Mr. IVINS:

Q. One-third of what they had been in 1887? A. Yes, sir.

Q. Now, from certified and exemplified copies of returns to the Court of Appeals it had averaged about \$6,751 right through until last year, when there was an increase to \$7,751? A. Yes, sir.

Senator FASSETT.— That is an increase of about \$1,000.

Mr. IVINS.— An increase of a thousand, and \$800 over 1888 and of a thousand dollars over 1887 and 1886.

Q. From certificates of official character qualifying notaries and other officials, filing and recording miscellaneous papers, the returns had been \$16,591.86; about the same in 1887; had increased about a thousand dollars in 1888, but in 1889 had fallen off to \$14,901? A. Yes, sir; but I think that the occasion of that falling off will appear in another title, of fees received, which will appear later on, there being none credited to that account for 1886 and 1887, and only a small portion in 1888.

Q. Now, there was practically the same amount returned in all four years from judgment-rolls, certificates and other papers? A. Yes, sir.

Q. That is an average of about 3,000 and a hundred dollars? A. Yes, sir.

Q. From equity judgments and filing and recording miscellaneous papers, about the same amount was received in three years, the four years? A. Yes, sir.

Q. Although in 1889, as compared with 2,854 received in 1886, there was only \$2,374 received in 1889? A. Yes, sir.

Q. Or proportionately quite a decrease; from transcripts filed, liens filed, *lis pendens* filed and recorded, etc., for form of return as per Exhibit 6, there are no entries in the first of these two years; there is an entry

of \$327 in the third year and an item of \$4,717 in the fourth year?

A. Yes, sir.

Q. The result of all of which is this —

By Senator FASSETT:

Q. What is the cause of that? A. I don't know; I think — I don't know positively, but my impression is that these were fees which were returned formerly under some other title.

By Mr. IVINS:

Q. The result of which is that, as against \$129,817, total receipts for 1886, there were but \$59,163 received in 1889? A. Yes, sir.

Q. The law was the same touching all four of these years. A. So far as I know.

Q. And touching the receipts of fees charged during all of these years? A. So far as I know.

Q. You not having taken in this statement any account of the fees received under the law of 1884 and up to 1886 prior to the change? A. No, sir.

Q. So far as appears by the books or records of the office, have you been able to see or discover any explanation of this decrease? A. I can not say that I have from any records of the office.

Q. From an investigation of the records of the office, however, and what you have been able to discover there, has anything been suggested to you as explaining this decrease? A. In a general way the decrease would be explained by the fact that the searching is now done by outside companies, such as the title and guaranty companies, and that amount of business has been taken away from the county clerk's office.

Q. That is probably, is it not, the most important element? A. It is the most important element.

Q. I notice you say, in addition to these amounts there was also paid into the treasury, through the medium of the county clerk, during the above-mentioned years, as follows: From clerks of the Supreme Court, for trial and extract fees and from stenographer's fees, in the year 1886, \$8,440.57, and a slight increase each year up to 1889, when it was \$9,296? A. I have made that statement because those fees are received through the agency of the county clerk's office, but it is not fair that those should be credited as against the fees he has received because the salaries of the stenographers, etc., are not charged as against those fees.

Q. These were simply passed into his accounts and passed out of his accounts again, because he happens to be the county clerk? A. Yes, sir.

Q. And the officer through whom it must be done? A. Yes, sir.

Q. Now, that covers the revenues of the office? A. Yes, sir.

Q. Now, as to the expenditures of the office your statement would seem to show that the total expenditures of the office for 1886 were \$98,161; for 1887, \$108,357; for 1888, \$106,235, and for 1889, \$97,000?

A. That is including the amounts paid for extra searches.

Q. Yes; they are the total expenditures of the office for all classes of payments to subordinates, salaries of the clerk himself, etc.? A. Yes, sir.

Senator FASSETT.—And for extra help.

Mr. IVINS.—And for extra help.

Q. Deducting the amount paid for extra searches, however, you find that the payments were \$86,984 in 1886, and \$93,268 in 1889, for instance? A. Yes, sir.

Q. Now, what does this part of that statement mean; receipts 1886; receipts not including extra searches; trial and stenographers' fees, \$116,465; expenditures for salaries, not including amount paid for extra searches, \$86,984.55, making a gain of \$29,480.54; by saying "making a gain" there, you mean that that is the profit on the account? A. Yes, sir.

Senator FASSETT.—That is the net income to the city.

Q. That is the net income to the city? A. Yes, sir.

Q. Receipts for extra searches were \$13,352.70? A. Yes, sir.

Q. With the expense to add, \$11,177.07? A. Yes, sir.

Q. And on that item there was an income or revenue to the city of \$2,175? A. Yes, sir.

Q. The income or revenue to the city was net, from the general searches, and all expenditures for salaries, \$24,628, in 1887? A. Yes, sir.

Q. And net from extra searches, \$2,176.57? A. Yes, sir.

Q. Which was a slight decrease of the net income to the city as compared with 1886? A. Yes, sir.

Q. In 1888 the two items corresponding were \$26,103 and \$1,393? A. In 1888 is a loss; that is a loss—loss of \$26,103, less the gain for extra searches.

Q. In 1888 the receipts you say were \$70,309? A. Yes, sir.

Q. And the expenditures \$96,413? A. Yes, sir.

Senator FASSETT.—Making a loss to the city on that item of \$26,103?

The WITNESS.—Yes, sir.

Senator FASSETT.—Making a difference between 1887 and 1888 of somewhere about \$50,000.

Mr. IVINS.—Over \$50,000 difference to the city—difference between a credit balance of about \$25,000 and a debit balance of about \$25,000.

Q. Although it did make a gain on the item of extra searches by about \$1,093 that year as compared with \$2,076 the year before?

A. Yes, sir.

Q. Was your attention called to the coincidence that the amount paid over as the payment earned on the extra searches in 1886 was \$2,075 and in 1887 \$2,176? A. Yes, sir; I noticed that fact.

Q. Do you find any way of accounting for it; do you think it is entirely accidental? A. I think it can be accounted for.

Q. In 1889 it appears from your return that the loss was \$39,432 on the general account, but with a profit on the extra searches of \$1,149?

A. Yes, sir.

Q. As against \$1,393 of the year before? A. Yes, sir.

Mr. IVINS.—This paper is to be marked Exhibit "A," and wants to be put in before the beginning, or at least just at the beginning of Mr. Tate's evidence, and transcribed there. [Paper marked Exhibit "A" of this date.]

Q. You have brought that account down, have you not, to date?

A. Yes, sir.

Senator McNAUGHTON.—Has the county clerk an abstract copy of Mr. Tate's figures?

Mr. IVINS.—No, sir.

Senator McNAUGHTON.—I think it would be well for you to furnish him one.

Mr. IVINS.—Well, if the stenographers will put in typewriting their minutes, also prepare a copy of that statement and a copy of the testimony as well, if the committee desires it, it can go to the present county clerk.

Senator McNAUGHTON.—I think it would be well to furnish it to him.

Mr. GILROY.—If you will just let me glance at it, that will do.

Q. Is this your supplemental statement, bringing it down from January first to October first of the present year? A. Yes, sir.

Q. And that completes the accounting, as far as it is practicable to do, at the present time? A. Yes, sir.

Q. I mean the part of the accounting corresponding to that statement which we have already had in? A. Yes, sir. [Paper marked Exhibit "B" of this date.]

By Senator FASSETT:

Q. This supplemental statement shows an increasing ratio of loss to the city in the conduct of the office, does it? A. Yes, sir.

Q. The increase since the loss began — the loss has been continually growing larger, has it not? A. Yes, sir.



Senator FASSETT.— About fifty per cent a year.

Mr. IVINS.— Falling off about fifty per cent per annum, and instead of a profit of some \$26,000 in 1887, we now have in this present year a loss of, as estimated, something about \$38,000 or \$39,000. Then that would correspond with last year's loss, making an actual difference in of about \$65,000 at the present time.

Q. Now, have you made any figures to show what the profits of the office were in 1884, at least under the law of 1884, but prior to the passage of the law of 1886? A. In 1884 these fees were received by the county clerk, weren't they?

Senator FASSETT.— As his personal property, and no public record of the same, was there?

The WITNESS.— I have no records, that I know of, showing what fees were received by the county clerk.

Mr. IVINS.— Mr. Gilroy has already been sworn, as the committee will recollect. When did Mr. Flack take office?

Mr. GILROY.— On the 1st of January, 1886.

The WITNESS.— I have covered from that period.

Senator FASSETT.— The law of 1884 took effect January 1, 1886.

Mr. IVINS.— Eighteen hundred and eighty-six, and virtually took effect in its amended form when it did take effect?

The WITNESS.— Yes, sir; Mr. Keenan was the former county clerk.

By Senator McNAUGHTON:

Q. You stated that searches was one of the most important elements; you mean by that the largest source of income? A. Yes, sir; they were the largest source of income, as shown by my tabulated statements; now they seem to be smaller.

Q. You give as a reason that those searches go to the title insurance companies? A. Yes, sir.

By Senator FASSETT:

Q. Well, Mr. Tate, as the result of your examination, have you any reason to suppose that that accounts for the entire diminution of business? A. I think so; I see no reason why I can give any other reason for its diminution.

By Mr. IVINS:

Q. There are only two ways, aren't there, for it to have fallen off — three ways, we will say; one is by the legal reduction in the amount of fees to be charged, and we don't know that any such reduction has been made; the second will be about the failure to properly charge and collect the legal fees? A. Yes, sir; that could be.

Q. And the third would be an actual decrease in the volume of business? A. Yes, sir.

Q. And the only thing that you have any knowledge of is the decrease in the volume of business? A. That is all I have any knowledge of.

Q. There is nothing in the books of the department, so far as you have been able to discover, which shows any failure to properly collect and account for fees? A. I know of none.

Q. But you have not audited back the work and checked it off for the purpose of seeing whether that had been done? A. No, sir; I have not.

Q. That would be a most laborious and impracticable task, would it not, under the present system? A. Yes, sir.

Senator McNAUGHTON.—Mr. Ivins, under the existing statute, does the county clerk guarantee the correctness of the searches which he makes?

Mr. IVINS.—Yes. He shall be legally liable for any damages resulting from errors or mistakes in the searches by him; that is the provision.

Q. Now, your attention was called to the matter of the preservation of public records? A. Yes, sir.

Q. Did you make an examination of the expenditures as incident to that? A. I did.

Q. Is this the result of the examination [showing paper]? A. Yes, sir.

Q. And the figures as shown there are accurate as compared with the books? A. Yes.

[Paper referred to marked Exhibit C, October 9, 1890.]

Mr. IVINS.—Now, I call the committee's attention to the fact that this work is done under chapter 57, of the Laws of 1883.

Q. Now, this work is done under chapter 57, of the Laws of 1883, I see? A. Eighteen hundred and eighty-three.

Q. The expenditures for copying, comparing map work and doing binding from July, 1883, to October 1, 1890, have been, you say, as follows: for 1883, recording clerks, two to three, \$100 per month, \$1,630; bookbinder, one, \$100 per month, \$600, making an aggregate for that year, \$2,230? A. Yes, sir.

Q. In 1884 you reported it to have been \$14,943.27? A. Yes, sir.

Q. The recording clerks have been increased in number from three to eleven? A. They range from three to eleven on the pay-rolls.

Q. And that item of \$12,251, as compared to the item of \$1,630 in the previous year —

Senator FASSETT.—Have you any figures to show the difference in the amount of work actually done?

Mr. IVINS.—Yes; that will come out, I think.

Q. In 1885 you report \$15,764? A. Yes, sir.

Q. In 1886, \$16,700? A. Yes, sir.

Q. In 1887, \$18,062? A. Yes, sir.

Q. In 1888, \$18,000? A. Yes, sir.

Q. And in 1889, \$17,000, and in 1890, \$13,037; that is, to the date of this report? A. Yes, sir.

Q. Making a total expended during this time for the preservation of public records of \$116,178.84; deducting the amount paid during this period to bookbinders, \$11,400, making a total for recording, comparing and map work of \$104,778? A. Yes, sir.

Q. So that that is a statement of the cost to the city and county from 1883 to date, for work in the preservation of the records? A. Outside of bookbinders.

Q. In the county clerk's office? A. The 116,000 represents the entire expense; the 1,400 represents the copying, comparing and map work, not including bookbinders.

By Senator FASSETT:

Q. Out of \$116,000, in other words, the bookbinders got \$11,000? A. Yes, sir.

Q. That is done for the purpose of estimating the cost of the work as compared with the volume of the work, the actual expenditures for the preservation of the records in that office being \$116,000 during this time? A. Yes, sir.

Senator FASSETT.—Then add a quarter of 13,000 to 13,000, and you get about what the rate is for this year, and it brings it a little over \$16,000, not far from the sum that was expended last year?

Mr. IVINS.—Yes.

By Mr. IVINS:

Q. Now, these recording clerks and others are entered in the list of the expenditures of the office as shown on the item of outgo? A. Do you mean by the statement which has been already submitted?

Q. Yes. A. No, sir.

Q. This is additional to that? A. This is additional.

Q. So that in addition to the loss of about \$65,000, which the office is now sustaining, as shown by your prior statement, there has been during the last eight years an expense which would go to loss account of \$116,000? A. Yes, sir.

Q. Now, if this item be for this present year what it was for the last year, \$17,000, that would have to be added to the item, say \$65,000, as shown by your last report, in that way making an actual net cost to the city of that office of eighty-two or three thousand dollars per annum, would it not? A. Yes, sir.

Q. So that the office which was expected to show a revenue to the city is now, because of all of these reasons, not only not self-supporting, but showing a loss of some \$82,000? A. I think if you will refer to the statement that in 1883, 1884 and 1885 the city had to pay the cost of these recording clerks and the bookbinders.

MR. IVINS.—They did at that time because the appropriations for that were made specifically under the law by the board of estimate and apportionment as a special matter?

THE WITNESS.—Yes, sir.

SENATOR McNAUGHTON.—Have there been more books rebound within four or five or six or seven years past than before that?

MR. IVINS.—I think we will reach that in a minute if we take the exact amount of work that has been done.

Q. I notice you report 140 volumes of equity judgments have been completed and thirteen volumes partly finished? A. Yes.

Q. That is the total work? A. So I am informed.

Q. Now, you may be able to answer Senator McNaughton's question: Do you know how much of that work was done in 1883, 1884 and 1885, as compared with what is being done now? A. I think I can reach that point, although I haven't made up the figures; I don't know of any way by which I can say how much was done in any one year prior to 1885; these books are marked upon the back with the number of the year in which they were completed—either begun or completed; none of the books bear any marks showing what year the work was begun or completed until 1885, so that we would have to credit as against 1883, 1884 and 1885 all the books which are marked 1885, then 1886, '7, '8, etc.; I think I can make that up, assuming that the work was absolutely done in those years, but the comparing of those books may have been in subsequent years, so that so much of that expense would be charged to a subsequent year; but I can get, so far as the marks upon the backs of the books are any indication of the work done in those years if you wish me to.

Q. Will you do it? A. Certainly I will do it.

Q. You say that the total number of pages covered during this period has been 84,336? A. Yes, sir.

Q. That is actual transcribing? A. That is actual transcribing.



Q. Considerable of the work remains to be done, so far as comparing these transcriptions with the original books and documents? A. Yes, sir.

Q. Only eighteen volumes, you say, bear the certificate of the county clerk, that he has compared them with the original record on file in the office, and that the same is a true copy thereof, and of the whole of said original? A. Yes, sir.

Q. So that out of 153 volumes — A. One hundred forty finished ones.

Q. That is right; out of the 140 finished volumes, only eighteen have been certified to by the county clerk, and really have been properly finished; those have been compared? A. Yes, sir.

Senator FASSETT.—So that only eighteen have the official approval, and can be used in making official searches? A. Yes, sir.

Senator FASSETT.—Or can be used in court?

Mr. IVINS.—Or can be used in court.

Q. So that for this work which has cost \$116,000, and which covers 140 volumes, and which has been running on for the last eight years, only eighteen volumes actually bear the certificate, and can be used as legal evidence? A. Yes, sir.

Senator McNAUGHTON.—Does the law require the clerk to certify?

Mr. IVINS.—I will read the statute.

Q. All of these certificates were given by Mr. Reilly, who has just died? A. Yes, sir.

Q. There were no certificates prior to his time at all? A. No, sir.

Q. He is the only one, consequently, who had ever really completed a single volume of this work on that basis? A. Yes, sir.

Senator FASSETT.—Made it officially available. The cost per page, as far as the work has progressed, is one dollar twenty-four cents.

Q. That you find to be the actual cost, on an actual calculation, do you? A. Yes, sir.

Q. One dollar twenty-four cents per page? A. Yes, sir.

Q. You are yourself a professional accountant; as a man drafting documents and copying documents, you know about how much work a good, able-bodied, competent clerk ought to be able to do in a day in the way of transcribing, do you; you know the cost of one of the clerks in your office to whom you are paying a salary; how many pages of this work do you think the average competent clerk could do per diem, doing an honest, fair day's work each day? A. I want to make this statement; there are some of the documents there which can not be copied with rapidity; they are old; they are worn, and the writing is of a very early date, and, of course, it would take longer time to copy such records.

Q. Is that a large or small proportion of the records? A. I can not say; I should think that the work upon which they have been engaged, was in copying the earlier records, and not the later ones; so that in that respect it would be a little difficult for me to say how much they ought to do; but take ordinary copying, I —

Q. Leaving apart the question of the time; suppose the transcribing was itself a perfectly easy thing; that is, that the record to be read was perfectly legible and just as legible as one of the modern records would be; how many pages a day do you think could be transcribed by a clerk? A. I should think a man could very easily do from eight to ten pages.

Q. In a day of how many hours; eight hours? A. I should say in eight hours; when I say eight hours — from 9 to 5 — I mean, of course, that includes a lunch time for the clerk.

By Senator McNAUGHTON:

Q. This copying and recopying has to be done with strict accuracy, has it not? A. Certainly.

Q. Not only in regard to punctuation, letters and figures, but you copy also an error in spelling; they do, don't they — in other words, they make it an exact transcript of the original book? A. I suppose the object is that it shall be an exact transcript; whether they do follow errors in spelling or not, of course, I don't know; but, of course, it should be an exact copy.

Q. That, of course, is implied, that they will make it an exact transcript? A. Yes, sir; that is my understanding.

Q. In every particular? A. That is my understanding.

Mr. IVINS.—Now, the statute which you referred to, Senator McNaughton, is as follows: "Whenever by reason of age, exposure," etc. [reads]; so that the certification is there provided for as one of the things antecedent to use under the revised statutes.

Senator McNAUGHTON.—And the county clerk is to be the judge of the necessity of recopying?

Mr. IVINS.—Recopying; yes, "and the officers making the transcripts" [reads].

Senator FASSETT.—The judge of the mutilation and obliteration is the clerk himself?

Mr. GILROY.—I would like to explain that.

Mr. IVINS.—Go ahead.

Mr. GILROY.—The course pursued is this: the county clerk goes through the records and ascertains what records require to be copied and transcribed; he makes a schedule of those records and he submits them to the Supreme Court; the judge of the Supreme Court,

whom they are submitted, if in his judgment they are proper, approves of it, and this approval, together with that certificate, is sent to the board of estimate and appropriation for the necessary appropriation; the pay-rolls before being paid, have also to be approved by a judge of the Supreme Court, after the work is done.

Senator FASSETT.— That is the practice; the law does not require the first submission to the judge.

Mr. GILROY.— The law practically does, because the Supreme Court wouldn't certify to the expense unless they first have the privilege of certifying to the papers that should be copied. Furthermore, I believe the statute has been changed this year in that regard, so that the Supreme Court is left out.

Mr. IVINS.— So that the Supreme Court has no longer to certify ?

Mr. GILROY.— No longer has to certify.

Mr. IVINS.— So that the payment is now made on the certificate of the county clerk.

Senator FASSETT.— You say there: "The following is a list of the clerks and bookbinders whose services are charged to the preservation of public records." There is one item you have made 11,400—

Mr. IVINS.— I was going back to that because I wanted to get that in this form.

Q. "The following is a list of the clerks and bookbinders whose services are charged to the preservation of public records in the county clerk's office for the month of September, 1890;" you took that simply as a typical month? A. Yes, sir.

Q. And the month during which you were actually working? A. Yes, sir.

Q. They appear there to be one chief temporary recording clerk at \$125 per month; one bookbinder at a hundred dollars per month; one bookbinder at seventy-five dollars per month and twelve temporary recording clerks at a hundred dollars per month, making a total expenditure for account of this particular pay-roll, of \$1,500 per month; at least for the month of September, 1890; I call the committee's attention to this other statement which completes this particular report; as I have already stated \$11,400 has also been paid to the bookbinders and charged to the preservation of old records; on inquiry, I was told that the work performed consisted of putting additional leaves into some of the books so that the document could be completed in one volume, and in cases where it was necessary to substitute a corrected page, in cases where errors had been made; it was also stated that the binders were engaged in other work for the county clerks, in general; that completes that statement? A. Yes, sir.

MR. IVINS.—I call the attention of the committee to some facts which will not be controverted, can be testified to formally by anyone, if necessary, but can stand on the record, I think: Pay-rolls of the judges, clerks, stenographers, attendants of the Supreme Court are prepared by the county clerk. That you have discovered by reference to pay-rolls?

THE WITNESS.—Yes, sir.

Q. The stenographers, librarian, crier and attendants are appointed by the courts; the county clerk appoints the following clerks under section 1112 of the Consolidation Act, their salaries being fixed by the act? A. Yes, sir.

Q. That is, a law clerk, \$3,500 per annum; an equity clerk, clerk of General Term, clerk of Special Term, part one; clerk of chambers clerk of Circuit, part one, part two, part three and two recording clerks? A. Yes, sir.

Q. You say there were also three other clerkships which you were informed were credited to the Supreme Court under the provisions of the code? A. Yes, sir.

Q. Namely: Clerk to the Special Term, part two, at \$2,000 per annum; clerk to the Circuit, part four, \$2,000 per annum; clerk of chambers records, \$1,200 per annum? A. Yes, sir.

Q. All of these thirteen clerks were appointed prior to the term of Edward J. Reilly? A. Yes, sir.

Q. Except the clerk of chambers, Ambrose O. McCall, and recording clerk, John S. Hill? A. Yes, sir.

MR. IVINS.—That will do for the present, Mr. Tate. Mr. Gilroy will take the stand.

THOMAS F. GILROY, being recalled, further testified as follows:

By MR. IVINS:

Q. You were deputy county clerk under Mr. Flack? A. I was.

Q. And you held that office for the term of three years? A. I did.

Q. From the 1st of January, 1886? A. Yes, sir.

SENATOR FASSETT.—Was this his first experience in the office?

Q. And covering 1886, 1887 and 1888? A. Yes, sir.

Q. What was your first experience in the office? A. I think in 1868, 1869 and 1870, or thereabouts, I was clerk in the Supreme Court, part 3, who held office under the then county clerk.

Q. The county clerk is the clerk of the Supreme Court; is he not? A. The statute; yes, sir.

Q. Is he the clerk of the Supreme Court and the Common Pleas also? A. No; he has nothing to do with those courts except as county clerk to file such judgments as may come down upon them.



Q. As clerk of the Supreme Court he has the appointment of certain subordinate clerks or officers who serve in the Supreme Court? A. He has.

Q. For instance, the law clerk, equity clerk, clerk of General Term the clerk of Special Term, chambers clerk and the third circuit, and two recording, are the appointees of the county clerk? A. They are; let me state that while they do not all serve in the Supreme Court locally, they do work connected with the Supreme Court, as for instance, the law clerk and the equity clerk have their offices in the county clerk's office, but all their labors are in connection of judgments of the Supreme Court and orders of the court.

Q. Under that theory of the law they are appointed by the county clerk? A. They are.

Q. Under the practice of the law they are appointed by the county clerk as well? A. Under the theory of the law and under the practice; both.

Q. Is it not the fact that, in reality, the county clerk, inasmuch as these people are the servants of the court, appoints to these particular offices the persons designated by the court itself, as a rule? A. It is not.

Q. It is not? A. Not to my knowledge; my knowledge is just the other way.

Senator FASSETT.—How is that?

Mr. IVINS.—I asked Mr. Gilroy whether or not the courts themselves, who were to avail of the services of these people, virtually designated to the county clerk the persons whom they desired to have appointed.

The WITNESS.—It is not so.

Mr. IVINS.—Is Mr. Tate still here?

Mr. GILROY.—He is right behind you.

Mr. IVINS.—Let me ask you, Mr. Tate, these officers spoken of here, are they also included in your statements of the expenses of the office?

Mr. TATE.—No; they are not, with the exception of the law and the equity clerk.

Mr. IVINS.—These others have to be added.

Mr. TATE.—Yes, sir.

Mr. IVINS.—Then I call the attention of the committee to the fact that there would have to be added to that approximate net loss through the office as administered of about \$80,000—

Mr. GILROY.—Will you let me make a statement on that point.

Mr. IVINS.—Yes, sir.

Mr. GILROY.—The appropriation made by the board of estimate and apportionment for the purposes mentioned in that schedule is included in the appropriation made for the Supreme Court, and not for the county clerk's office.

Mr. IVINS.—That elucidates it perfectly; so that it covered on an entirely different account.

Mr. GILROY.—It couldn't have been in any way included in it.

Q. You heard the testimony of Mr. Tate with regard to the decrease in the income of the office? A. Yes, sir.

Q. Will you, as far as lies in your power, as incident to your experience in the office, explain to the committee why that is, and why the office has now become a burden to the city? A. There is only one reason for it, and that is the organization and creation of the title guaranty companies, which have entirely taken away the revenue of the city for searches; although I have not made an examination, I think it will be found upon examination that the income from other sources is about the same?

Q. What do you mean about that? A. From other sources from other items in the schedule mentioned by Mr. Tate.

Q. That appears so on the face of Mr. Tate's statement? A. I have not examined that to find out, but I think it would be so found if it was examined.

Q. It does so appear from the statement itself? A. Yes, sir; and there is not anything whatever that the falling off in the revenue is occasioned by the fact that the title companies have come into existence; I would like to make a statement in this connection although I wouldn't be considering as volunteering anything.

Q. Make any suggestion you please? A. Before 1886, the fees for searches were the property of the county clerks, whereas under the Reform Act of 1885, those fees were directed to be turned into the city treasury and the expenses of the searches were to be paid by the city.

By Senator FASSETT:

Q. That is the city took all the income and paid all the expenses? A. Yes, sir; and paid all the expenses; the act of 1885; also I think reduced the time for the return of searches to ten days; when that law went into effect on the 10th of January, 1886, for the first time great difficulty was found in making the returns of all the searches within the required time; the number of searchers was not adequate to it, and as there was no extra compensation to be paid the searchers, the extra fees having been abolished under the Reform Act of 1884, the searchers refused to work after hours, they receiving but an

annual compensation from the city, and it was found absolutely impossible to return the searches in the time required by law at the demand of the attorneys doing business with the office; thereupon the lawyers themselves, the lawyers of New York city, went to the Legislature and asked for the passage of some act which should give them relief; their demand resulted in the passage of the Expedition Act, which was read by Mr. Ivins.

Q. That was the law of 1886? A. That was the law of 1886; it was passed long after the Reform Act of 1884, and it was passed in obedience to the demand of the lawyers that they couldn't pass titles; up to that time we did everything we could to endeavor to get the searches out in time; but it was found to be utterly impossible until this act was passed; when this act was passed there was no difficulty found; it reduced the volume of searches required to be returned in ten days by requiring them to be returned in shorter time, and we are able to take them out of the great volume of searches and have them returned, by overwork.

Q. You say this volume of searches, of regular searches, has been taken by the title guaranty company? A. Nearly all of it; they do most all of it; I can't state is being done now, but in the last year of my term in office I found that nearly all the searches put in by the title companies, and they were very numerous, were searches for very short periods.

By Mr. IVINS:

Q. Why is it then that the amount paid in the county clerk's office does not seem to suffer a corresponding diminution? A. Let me say this to you without answering your question; the revenue is only affected in that quarter; and why a diminution has not taken place I am not able to answer.

By Senator McNAUGHTON:

Q. Do the title insurance companies do their work at less prices than the county clerk's office? A. I don't know what their schedule of prices are, but they seem to get most of the work; they are very nearly all composed of lawyers, and, of course, real estate lawyers will go where they understand such matters.

Q. At whose suggestion was the law of 1884 passed? A. I am not able to say; it was passed, I think, on the recommendation of a report of the committee on cities, of which Mr. Theodore Roosevelt was chairman.

Q. That is the law of 1886, was passed upon that recommendation? A. It was passed on the demand of the lawyers in order to give them the relief they required in order to get their titles passed.

Q. The lawyers who did business in the county clerk's office? A. Yes, sir; the county clerk neither recommended it nor asked for it.

By Senator FASSETT:

Q. Do you remember how many clerks you had employed as searchers, in 1886? A. I think there were nine; I am not positive, but my best impression is that there were nine.

Q. Was that number adequate to do the business? A. By doing overwork; yes, sir.

Q. And in 1887 and 1888, do you recollect how many there were? A. I think that number would have been adequate to do the work by working overwork.

Q. And in 1887 and 1888, do you recollect how many you did actually employ? A. My impression is that we decreased the salaries, or removed one or two of the searchers in 1888 for some error in the returns, and we then decreased the salaries of those who were appointed to succeed them, and in that way, I think, we employed a number of searchers.

Q. The searchers, so-called, were the only clerks who did search, were they not? A. That is all; one moment more; when we went into office, another great difficulty arose; the searchers then in office had been there some fifteen or twenty years, and probably had an idea that they ought to have a monopoly of the searching.

Q. They possessed special records of the searches? A. They did, and they carried them entirely out of the office, and left us entirely destitute of a scrap of paper on which searches could be conducted.

Q. Those old searchers subsequently became, either directly or indirectly, interested in the new title companies? A. I think they did, and the city was obliged to buy from them, for something like \$30,000, the data on which the searches could be conducted; later on, I will give you a reason in reference to this point why the certificates were not put upon those books properly.

Q. Give it to us now? A. The reason was that I didn't wish that the city should again suffer loss by having the books or papers carried away; I therefore made a rule that no memoranda should be made except during the hours of 9 and 4, when the searchers are employed for the city, and for which they are paid by the city, so that they wouldn't be able to make any memoranda in connection with the books after 4 o'clock.

Q. On the theory that their work, then, would belong to the city? A. Yes.

Q. They having taken the position that the old work that they sold had been done by themselves in their own way, in their own time, and



that it belonged to them? A. Yes, sir; and as fast as that work was done we paid to comparing clerks, one on the temporary pay-roll and one on the regular county clerk's pay-roll, to compare and check that work; and, of course, the work of the old records had to be kept in boxes; while that was being done I have in my mind a memorandum in my hand of the work that was done during that period.

By Senator FASSETT:

Q. I discover here that Mr. Tate's exhibit says that under the present county clerk there are eight searchers employed? A. I think the present county clerk made a reduction because of the reduction in the volume of business.

Q. And in 1886, you think, there were but nine? A. Nine or ten.

Q. This year they are doing \$10,000 worth of work; last year, \$20,000; and in 1886, about \$100,000? [Question not answered.]

By Mr. IVINS:

Q. Now, you may refer to your memoranda? A. Do you want to ask any question?

Q. I want to ask some more questions; but we might just as well take it in the order you have it, because it is pertinent to these points? A. The work that was done during those periods, and for the purposes that I have just stated was, two libers of equity suits which averaged about 800 pages apiece, and maps; and in the first place let me state, that when I went into office I found that during the term of office of my predecessor a great many of the books and maps had not been completed, and he took those up and completed them first for the years 1883, 1884, and 1885; we copied seventy-five books containing from 500 to 800 pages each; those I believe were not certified to; we copied thirty-six volumes of judgments and equity suits, which were in the safe books, and those I think were certified; we copied books of avowals, what they call books of avowals, those were short indexes which could be referred to at once, in order to find the entry of a judgment or execution; they averaged about seventy-five pages each; those had to be compared and checked over; we also had to compare and check them twice for fear of mistakes; there were 28,000 names of families in the indexes of judgments and avowals, nearly 100 volumes, that were copied, checked and compared; there were 22,000 names of indexes of equity suits, in which the same thing was done during that period of time; there were transcripts of judgments and decrees in the judgment docket-books e, f, g, h, i, j, k, and l, about seven or eight volumes that were compared and certified; there were books of receivers, and supplementary proceedings from 1862 to

1877, and from 1877 to 1884, which were copied, compared and certified.

By Senator FASSETT:

Q. These are now the public documents which under this law you were having recopied and preserved? A. Yes, sir; and which formerly were claimed to belong to the other parties.

By Mr. IVINS:

Q. Go on with your statement? A. Insolvent assignments from 1840 to 1887, were compared, copied and certified; foreclosures by advertising — this was only one volume from 1882 to 1887 — were copied, compared and certified; general assignments from 1860 to 1884, were copied, compared and certified; I think there were three or four volumes of those.

Q. Was that work all done by the so-called clerks specially employed for the preservation of old records? A. Nearly all of it.

Q. What part of it was not done by them? A. There were seventy-five volumes; did you ask what part of this was not done by them?

Q. Yes? A. Some of the searchers, when they were not employed in doing anything else, were employed at that; there were certain seasons of the year, when the work of the office is not as brisk as at others; for instance when the courts are not in session, there is not so much work to be done during the months of July, August and September, there is a lull in the real estate market, and the searches do not come in as numerous as they would in the spring, winter or fall months, and during that time when the searchers had nothing to do, whenever we could spare a searcher, we could put him at comparing, certifying and copying; I intend this explanation as a reason why the seventy-five volumes that have been referred to were not compared and certified when under the law they could be compared and certified at any time; we simply did what we thought was the best under all the circumstances.

By Senator FASSETT:

Q. As a matter of fact, were they compared without certification? A. No; they were not compared at all, those volumes.

Q. Could they be used? A. They couldn't be used in court but the records are still downstairs.

By Mr. IVINS:

Q. And the original records could be called for? A. At any time.

Q. And would supply sufficient proof? A. Yes, sir; I want to say right here that Mr. Tate is entirely right; the records were in a very

dilapidated condition and sometimes it required the greatest possible care to decipher what they contained.

Q. Mr. Tate's figures appear to differ from your figures? A. In what respect?

Q. Your figures appear to show a larger volume of work done than his? A. My figures have been taken within two days.

By Mr. IVINS:

Q. Mr. Tate says that he understands from your testimony that there is a larger volume of work done than would appear from his report? A. I do not understand what he understands from it but I am telling what the fact is.

Mr. TATE.—I may have misunderstood Mr. Gilroy's testimony.

Senator FASSETT.—I understand the testimony of Mr. Gilroy to be about the same thing in different form?

The WITNESS.—That is about it, I guess.

Mr. IVINS.—He spoke about 32,000 names and the avowal indexes. They are both small books.

Mr. GILROY.—You understand what they are.

By Mr. IVINS:

Q. You were speaking only of your own term? A. Only of my own term; I know nothing about anything else.

Mr. TATE.—I say that the only books which were shown to me as being chargeable to the work done by the clerks who were engaged upon the preservation of the old records were the 153 volumes which I have spoken of in my report.

The WITNESS.—They are probably included in the volume that I speak of. I speak of but seventy-five volumes of the really old records; what may be called old records, equity judgments and others.

By Senator FASSETT:

Q. Let me ask this question; were any of these clerks who were paid, and whose pay was charged to this sum for the preservation of old records, actually employed in any other work in the office? A. No; I regard these as old records that I speak of; Mr. Ivins will understand this, that the books in the safe in the inner office, which contained the indexes to the judgment and which are generally the medium of conducting all the searches were handled so frequently after this passage of the act in 1885, or after the act went into operation in 1886, that the edges began to be torn off of them and they became dilapidated, and in order to protect and preserve them it was absolutely necessary that something should

be done, and we had to have them copied; those are the books, I think, that you have probably found in the big safe in the inner room in the searchers' department.

By Mr. IVINS:

Q. As we understand it, under the law of 1884, the searches were required to be made within five days in any case? A. Yes, sir.

Q. Which, however, didn't go into effect until 1886? A. No.

By Senator FASSETT:

Q. Within ten days? A. No; within five days; the original law, yes; I think the law was subsequently amended so as to make it read ten days; the original law was five days.

Q. Between the time when the law was originally passed and the time when the law went into effect it was amended so that the term was extended from five to ten days? A. Exactly; that is it.

By Mr. IVINS:

Q. That is not entirely right because there was a period of several months; January, February, March and April, during which the returns were to have been made in five days? A. No; I think you will find on examining the statutes between the passage of the original act of 1884 and some acts subsequent thereto, or before the act of 1884 went into effect there was some amendment which required that the searches be returned in ten days.

Q. While that is possible I have not been able to find any such law, and I think you are in error? A. May be I am; I wouldn't be positive.

Mr. IVINS.—The statute of 1884 was passed, not to go into effect until the 1st of January, 1886. It went into effect on the 1st of January, 1866, but for some reason or another, or because of a number of reasons, whether it was intrinsic to the county clerk's office or extrinsic to it, and due to the members of the bar or what not, there were some friction delay and so forth. That resulted in the passage of the law of 1886, which was passed on the twenty-ninth of April of that year. Consequently through that winter and spring they had been operating under the provisions of the law of 1884, because that law was not amended between the time of its passage and the time it went into operation. It was amended four months after it went into operation. After it was supposed that its operation had shown the necessity of amendment.

Mr. GILROY — That is different from my recollection.

Senator McNAUGHTON — While we are on that subject, I think there is some misapprehension in regard to the legislation of last winter in



connection of the preservation of records. Here is the act [handing book to Mr. Ivins]. In other words the act of last winter does not change the law which was in force before that. A justice of the Supreme Court of the First Judicial District must certify that the records are required to be preserved or recopied.

Mr. IVINS.—The difference is this, that now the judges have to certify that it is necessary to do the work, whereas they did not use to have so to certify.

The WITNESS.—But they did all the same.

Mr. IVINS.—The law, as originally passed, didn't require them to certify in the first instance, but required to certify to the payments, and that carried with it the power that they claimed.

The WITNESS.—The power that they claimed; yes, sir.

Mr. IVINS.—Now, the act leaves out the certification of the payment, but vests in them the certification as to the necessity for doing the work; it has shifted it right around.

Senator McNAUGHTON.—They have primarily to certify that the work is necessary to be done, and now the board of apportionment and estimate fixes the amount to be paid.

Mr. IVINS.—The board of estimate and apportionment fixes the amount to be paid. The board of estimate and apportionment has always done that. The board of estimate and apportionment has to make appropriations in any event sufficient to cover what they estimate to be the expense of this work generally.

Senator FASSETT.—Mr. Gilroy can probably give you the reason of that change in the law.

Mr. IVINS.—I was going to ask him who was the moving party in that, and why it was done.

The WITNESS.—In 1888?

Mr. IVINS.—No; during the year 1889.

The WITNESS.—We were content with it during 1887 and 1888, and I don't know what discontent prevailed after that.

Senator McNAUGHTON.—I remember the discussion in the committee of cities on that point, and it was to this effect, that the justices of the Supreme Court hadn't any time to go over the work in the county clerk's office and certify whether it was necessary or not, but whether the board of estimate and apportionment was the proper board to examine into that work and certify whether it should be paid for; that was the moving reason.

Mr. IVINS.—The law does not require that the board should do that. Nevertheless the law requires that the board of estimate and apportionment shall only make the appropriation necessary to meet the

expenses incurred in the performance of the work, and upon the certificate of the county clerk having charge of the same the payment is to be made. The difference is, that under the old law the Supreme Court was the auditing officer and had to audit the accuracy of those accounts, and the Supreme Court said: "We can't audit this bill unless it was necessary that the work should have been done;" and, consequently, after having once made up its mind that the work ought to be done as incident to the necessity of auditing later on, the work was done and then the account was audited. In other words, the accounts of the county clerk were in this regard audited by the Supreme Court to the board of estimate and apportionment, who made the appropriation necessary to meet the bill when it matured. Now the board of estimate and apportionment makes those appropriations as it did before, the Supreme Court now certifies to the necessity of doing the work, which was only inferentially involved under the old system, and it no longer audits the bill. In other words, the county clerk audits his own bill.

The WITNESS.—The object of that really was this, as I have been informed, it was very difficult during the summer to get a Supreme Court judge that would audit the bills, or to find them; they were somewhere else generally, and the object of changing the law so that the men might get their pay promptly.

Mr. IVINS.—The auditors in the comptroller's office audit accounts generally, but this is taken out of the general system by the requirement that it shall be paid on the certificate of the county clerk; so that the county clerk is really the only auditor in the case, and probably in this regard that is one of the few exceptions in the city government where an officer making his requisitions for money also audits his own requisition.

Senator McNAUGHTON.—The work being done in his own office.

Mr. IVINS.—The work being done in his own office; but he is removed from all check or surveillance in that regard, in which particular respect he is unlike any other officer in the city government.

Q. Now to come back to the matter of extra service, to come back to the point that we were at when we shifted here, for the first four months of 1886, the rule seems to have prevailed as provided by the law of 1884, that is that it was the duty of the clerk to cause the searches to be made without delay, and to certify the correctness of his return within five days from the receipt of the requisition; after the expiration of four months that five days was extended to ten days; in other words he was given ten days more in which to do the work? A. Five days more.

Q. Five days more in which to do the work than he had had there before, notwithstanding which fact provision was made for the payment of an extra fee for expedition, although the time fixed by law was extended? A. Do you know what the time fixed by law was prior to the Reform Act going into effect?

Q. Prior to 1884? A. Prior to 1886.

Q. It was five days, wasn't it? A. Fifteen.

Q. Well here is the law? A. I am speaking of the law under which they acted.

By Senator FASSETT:

Q. Before the Reform Law became operative — up to that time?

By Mr. IVINS:

Q. You mean up to actual administrative year of 1886? A. Yes, sir.

Q. Under the laws applying to that particular year of 1885? A. Yes, sir.

Q. It is fifteen days? A. Yes, sir.

By Senator FASSETT:

Q. That is under the fee system, the clerk had fifteen days? A. Yes, sir.

Q. It might be put in this form that the clerk had fifteen days up to the 1st of January, 1886? A. That is my recollection?

Q. And from the 1st of January, 1886, up to the 29th of April, 1886, he had five days? A. That is not my recollection.

Q. After the passage of the law of April 29, 1886, he had ten days? A. Yes.

Q. And that law which fixed ten days also made provisions for the extra searches? A. Correct.

Q. In making those extra searches, who did any work as incident to the expedition and requiring extra pay, which extra pay came out of the receipts for the extra searches, other than the searchers themselves? A. There was considerable difficulty about the manner of administering that extra search law when it was passed, and after some time experimenting with it it was found that it would be necessary to keep an entirely separate and distinct account of extra searching, not only for the city but for the searchers themselves; it was agreed that fifty per cent of the amount of the extra search should be paid to the searchers who actually made the search; it was found necessary then to get somebody for whom no appropriation was made by the board of estimate and apportionment, to keep those accounts and to make the returns of the city; we communicated to the corpo-

ration counsel, the present of the Supreme Court, O'Brien, upon the subject as to whether or not anybody in the employ of the city could be paid out of the fees accruing for extra searching, for services performed in the carrying on of extra searches under the act; he wrote a letter stating that the county clerk could employ anybody he chose for that purpose; it was deemed advisable to employ somebody who had some knowledge of the office, and who had some knowledge of the manner in which searches were conducted; I think there was a messenger or janitor who remained there at night, and locked the office up and came there in the morning and opened it for the extra searches whom remained overtime, and who came there in the office before the office hours commenced.

Q. Who was that—Michael Whalen? A. I think he was one, and I think there was another one, if I am not mistaken.

Q. A man named Maroney? A. Maroney was there for a time and myself; I was employed in the capacity, and Mr. Flack's son William L. was employed as bookkeeper; I think my duty was to mark the extra searches, keep an accurate account of those, to give them around, to see that they were returned within the proper period, and estimating the amount of cost on them.

Q. That was William L. Flack; was it? A. William L. Flack; the amounts paid to those people were paid out of the fund for extra searches; but inasmuch as that fund was not a guaranteed fund and was not a stable fund, that could be relied upon to turn in so much money every month or every year; they were paid percentages; I think that the searchers were paid fifty per cent of the extra fee; I think that Mr. Flack's son was paid twenty per cent of the extra fee; I was paid ten per cent of the extra fee; if I don't mistake it, and there was some twelve and a half per cent left, which was returned to the city treasury.

Q. So that it was calculated in advance that eighty-seven and a half per cent of the income from that source should be distributed among the searchers, Mr. Flack, yourself and others? A. Yes.

Q. And that twelve and a half per cent should be turned into the city treasury? A. That was left to be paid in; I don't know whether Mr. Tate, in making his report upon the revenue from extra searches to date, understood that; this was only the extra compensation for searching; the regular fee for searching has nothing at all to do with this calculation.

Q. We understand that perfectly? A. The city got its regular fee independent of any other consideration, and, in addition, got what was left after defraying the expense of extra searching.



Senator FASSETT.— Mr. Gilroy's memory is pretty good about that. To go into that parenthetically for a moment, the five days was extended to twenty days by the statute of 1885.

The WITNESS.— Yes, sir.

By Mr. IVINS:

Q. So that during that particular four months, from the 1st of January, 1886, to the 29th of April, 1886, it was twenty days? A. I think so; I was not quite certain as to the time, but I knew the extension had been made, because it was a physical impossibility to comply with the law.

Senator McNAUGHTON.— The statute now makes the county clerk lively.

Mr. IVINS.— All the statutes did that.

Q. That was the statute of 1885? A. Yes, sir; of course this was five years ago, and my mind is not very clear on the subject of the statutes.

Senator FASSETT.— You are quite correct, Mr. Gilroy, about that.

Mr. IVINS — Your recollection proves to be much clearer than mine.

Q. The statute reads, "which additional fees are to be included in the accounts of fees provided for by the seventh section of this act;" was the aggregate of these fees accounted for? A. Yes, sir; there was a supplemental return filed with the return every month in the comptroller's office, containing an accurate account of all the expenditures under that extra searching act, and then the check of the county clerk was drawn and paid into the city treasury for the balance remaining after the expenses of conducting the extra searches had been paid; that was done under the opinion of Corporation Counsel O'Brien, which, I think, is on file now in the county clerk's office.

By Senator FASSETT:

Q. Do I understand that you paid the searchers fifty per cent of all that was received from that source? A. Of the extra searching only.

Q. They got fifty per cent of all the extra searching? A. Yes, sir.

Q. Mr. William Flack got twenty per cent of all the extra searching? A. Yes, sir.

Q. And you got ten per cent of all the extra searching? A. Yes; those figures, I believe, are correct.

Q. And the city got twelve and a half per cent? A. That is it, exactly.

By Mr. IVINS:

Q. The business then was not conducted on the basis of keeping account of the actual receipts and expenditures, but on the basis of a

predetermined plan that that would be right and fair and a proper compensation, that the city shall have twelve and a half per cent and you should have the balance; I mean that the county clerk's subordinates should have the balance of eighty-seven and a half per cent. A. No; it was fixed in that way simply because we couldn't determine exactly what compensation to pay anybody; the fund was not a stable fund, and we never could rely upon its amounting to anything, and as a matter of fact, you will find that in 1888 it fell down so low that it amounted to very little.

Q. In 1888? A. Yes, sir; the last year of my time; in 1889 it was about 11,000 and the next year about 5,000; the method of keeping the accounts was submitted to Comptroller Loew, who determined the method of keeping those accounts and making those returns; it was at his suggestion and that of the corporation counsel.

By Mr. IVINS:

Q. What bearing does that volume of work have upon the amount of pay, if there was only half as much work to be done, there was only half as much work to be paid for, isn't that it? A. We could not determine to give to the searchers twenty-five dollars, or fifty dollars, or seventy-five dollars, or \$100 a month additional, nor we couldn't agree to pay the janitor fifty dollars, sixty or seventy dollars additional, because the amount received from extra searches might not cover that amount, and we were therefore obliged to give them a percentage of what came in.

Q. I understand that, and that you were advised by the corporation counsel was entirely permissible under the law; do you so understand it? A. Yes, sir; and that method of making the accounts was provided and designated by the comptroller, as the law required.

Q. That method prevailed still when you went out of office? A. I believe it did up to the last time that I was in the office; I want to say here that I don't think I have stood in the office twice since I left it.

Q. When did Mr. William L. Flack do the work connected with this business; did he do it during the regular official office hours? A. Sometimes, and sometimes later in the day.

Q. And when did you do yours as cashier? A. I generally did it after office hours; all my work in connection with that business was generally done after office hours.

Q. I find that during this time there was paid to the searchers on this account, that is during those three years, \$19,544; there was paid to a clerk, \$1,185; there was paid to William L. Flack, bookkeeper,

\$8,339; was Mr. Flack also an employe of the office in other matters?

A. No.

Q. He was not on the pay-rolls at all? A. No.

Q. Thomas F. Gilroy, cashier and superintendent, \$4,168.01? A. That is for three years.

Q. You were at the same time, however, the deputy county clerk? A. I was.

Q. Receiving a salary from the board of estimate and apportionment? A. I was.

Q. Frank A. Maroney, was he in the employ of the office? A. He was not in the employ of the office in any other capacity.

Q. Mr. Almack and Mr. Michael Whalen, janitors, were they? A. I am not sure; I think that Mr. Whalen was.

Q. He received \$1,089 during this time? A. Yes, sir.

By Senator FASSETT:

Q. They received an expediting fee too? A. Not any expediting fee; they received a compensation for coming down early in the morning and opening the office, and returning late at night and closing it.

Q. And the sum paid to them seems to be reasonably small, not over \$133 a year? A. Not more than that; I think it was five or six per cent that they got.

By Mr. IVINS:

Q. A little less than a dollar a day? A. Yes, sir.

Q. Will you, as having occupied that office, and being familiar with its work, and having your attention called to the operation of the office under a new system as compared with its operation under the old system where the county clerk was responsible and got the fees, and the city, however, bore no financial burden, whereas now the county clerk has a fixed salary, and the city has a financial burden — A. Is he responsible now?

Q. He is responsible for the accuracy of his searches? A. Do you think he is?

Q. The statute appears to say so; I have not investigated it with thoroughness and care from that point of view? A. I have some doubts upon it; I can't give any opinion on that subject while so important a consideration remains undetermined, as to the responsibility of the county clerk.

Q. Then give the opinion from the point of view of either hypothesis? A. If the county clerk is responsible now as he was under the old law, for his searches, I don't think that the change is an injury to

the city, for the reason that while the city pays more money out for the support of the county clerk's office, and received less, the burden upon the general taxpayers is reduced; I think a larger view of those subjects must be taken than the mere effect it has upon a public office or a public officer.

Q. Do you think, if the county clerk to-day restored to his old position as a feed officer, that he could so conduct his office as to make the equivalent of his present salary, or even more? A. As a feed officer?

Q. Yes? A. Yes, sir; I think he could.

Q. As a feed officer? A. Yes, sir.

Q. Then it appears that if the county clerk were a feed officer, there would be no loss account, but a profit account? A. To whom?

Q. To the account itself? A. Do you mean to say that if the county clerk was a feed officer, and received the fees that come into the office now?

Q. If the county clerk were to-day a feed officer, and had nothing whatever to do with the city treasury, but collected his own fees as he used to do prior to 1884, and paid his own expenses out of those fees, as he used to do prior to 1884, do you think that he would make the equivalent of his present salary? A. I am not acquainted sufficiently with the volume of the business in the office now to determine that fact; but let me say now that prior to 1884 the city was not exempt from the entire burden of a county clerk's office; the whole of it, except the searchers' department before was borne by the city; there were no salaries paid by the county clerk to anybody except the searchers' department before 1884, or before the reform act went into effect, and I think you will find that the appropriation of 1885, made by the board of estimate and apportionment was probably not more than \$20,000 less than the appropriation for 1886, when the reform act went into effect.

Q. The appropriation was about \$20,000 less then? A. Probably.

Q. Have you any knowledge as to how much less the appropriation of 1885 was than the appropriation of this year? A. No; I say that the appropriation of 1885 was probably \$20,000 less than that of 1886; I can't tell what the appropriation this year for the county clerk's office is.

By Senator FASSETT:

Q. That is, the immediate effect of this law was to save the city something in the way of appropriation of about \$20,000? A. It saved the city directly in that way; it saved the city a great deal



more than appears from the testimony given here to-day; the city received \$125,000 from the county clerk's office the first year of the reform law; the year before that, while it received but a very small amount of fees from the county clerk's office, it was obliged to bear nearly all the burden of the county clerk's office, and the only additional burden put upon the city by the reform act of 1884 was a burden of supporting the searchers and the searchers' department.

Q. So that the immediate effect of this law of 1886 was quite as advantageous to the city treasury? A. Very much so, and I am not quite satisfied, and I am not quite dissatisfied that it is so now, except, of course, that there has been a great reduction; of course, I am taking taxpayers into question.

Q. Never mind about the taxpayers for the present; the county clerk's office fees are paid by the men who actually get the service are they not? A. Yes, sir.

Q. They get their money's worth when their searches are made? A. Yes, sir; presuming that the appropriation of 1886 is \$90,000, and that the appropriation for 1885 was but \$60,000, the city is now bearing an additional burden of but \$30,000.

\*MR. IVINS. — Assuming those facts, Mr. Gilroy is quite right now. It is necessary for us to go a step further than we have done in the work of the accountant, and to go back to the year 1885, and then to equate these accounts by showing what part of the burden was borne by the city prior to 1885, and then we have got the apparent net loss as shown from the accounts to-day, and then we can determine the exact net profit, or net loss, as shown incidentally to the change in the law.

MR. GILROY. — Yes, sir.

SENATOR FASSETT. — Say for the years 1884 and 1885?

MR. GILROY. — I remember in the year 1886, I undertook to make a schedule of the actual benefit derived by the city from the passage of the law, and I think that the actual benefit amounted in dollars and cents to something between \$60,000 and \$70,000; that is taking into account that the city had to bear those burdens before.

By Senator McNAUGHTON:

Q. The fact that apparently under the statute a county clerk is liable for an error, does that tend, or is inclined to incite him to obtain less work in the searching department — in other words, suppose he did nothing at all in the searcher's department? A. His liabilities would be less, of course.

Q. In other words, by an error in one search, he might be mulcted in damages to the amount of his whole salary? A. Yes, sir; some lawyers with whom I have conversed down in the office, while I was deputy county clerk, are of the opinion that that clause of the law is inoperative, and that the county clerk is not liable inasmuch as he is a servant of the city, and the city is liable for the acts of its servants.

Mr. IVINS.—That is a very serious question. It has been passed, incidentally, once or twice in the Court of Appeals. It has been raised in regard to the chamberlain's office and in regard to the comptroller's office.

Mr. GILROY.—In that view, you see my answer would be of a very different character, if the city had this additional responsibility thrown upon it. Then the reform law was not reform. If, on the other hand, the county clerk is still responsible, I believe the reform act to be a good one.

Q. You are of the opinion that point ought to be cleared up by legislation, if it can be? A. I am, indeed, if it can be done, which I doubt.

By Senator McNAUGHTON:

Q. It requires a particular kind of skill to make good searchers does it not? A. Yes, sir.

Q. And great intelligence? A. Yes, sir; not only great intelligence, but great patience and expertness; a man must have a very thorough knowledge to do it, and it would be a very dangerous thing for anybody who is responsible for the accuracy of the search to put an inexperienced man in there.

Q. And the fees are now arbitrarily fixed by law? A. They always were.

Q. The title insurance companies are not regulated by law as to their fees? A. I think not; of course it is to their interest to make their fees less than is required by law; otherwise they wouldn't get any business.

Mr. IVINS.—If the committee has no further questions to ask Mr. Gilroy, I have no further questions to ask.

By Senator FASSETT:

Q. There is only this one question that I didn't quite get; where there is a deficit and the amount of the deficit has to be made up out of the city treasury, that is distributed among all the taxpayers of the city, whether they do any business with the officer or not? A. I presume it is, although not perhaps directly; Mr. Ivins will be able

to give you more information on the subject than I can; the taxes are increased or reduced, as I understand, by the amount of the general fund, but I don't understand that it falls on the taxpayers directly.

By Mr. IVINS:

Q. So far as it falls upon one taxpayer, it falls in the same ratio upon others? A. Yes, sir.

By Senator FASSETT:

Q. And under the old system the man who got the work done paid for it? A. Yes.

By Mr. IVINS:

Q. That is, all the taxpayers bear the burden equally in the tax levy, the amount raised by the levy? A. Yes, sir.

Senator FASSETT.—I think it is quite important that the accountant should investigate this expense during 1884 and 1885.

Mr. IVINS.—I have requested him to do that and he will bring the matter in.

By Senator McNAUGHTON:

Q. You have no doubt about this, that by legislation that would be settled? A. The liability of the clerk?

Q. Yes; that could be corrected by legislation? A. I have some doubt about the right of the Legislature to correct it.

Senator FASSETT.—If there is any question there it must be extra-legislative.

Mr. GILROY.—I think it is entirely outside of their powers. They can't make a man responsible for something he is not responsible for.

Q. The Legislature has power to relieve him from that responsibility? A. The difficulty about this is, that if you find that a county clerk has made a search, which by some neglect or error in his search has caused to lose \$20,000, instead of suing the county clerk from whom you might not be able to recover at all you would probably sue the principal from whom you are sure to recover; you would take the best one to sue.

Q. The Legislature could relieve him from responsibility? A. I think it could, but I don't think it could add any responsibility to him unless he was receiving the fees directly.

Mr. IVINS.—It certainly could not, so far as it affects any actual incumbent of the office at the time of the passage of the law.

Mr. GILROY.—I ought not to be called upon to express an opinion on those subjects. I am not a lawyer, anyway.

Q. You have had to operate under the law? A. Yes, sir.

Mr. IVINS.— That is all I wish to ask, Mr. Gilroy. In view of what I said when I began, and in view of what was said by Senator McNaughton, so far as involves the immediate investigation of the actual personnel of the office, and the manner of appointment of other things and that kind, I don't care to pursue the investigation now; but this same matter of extra searching, of preservation of records, and other methods of that kind has been taken up as falling under the same statute, in the office of the board of aldermen. The same sort of thing will come up in the matter of the register's office, and in the matter of the surrogate's office, and while covering that and the extra searching and the apparent deficit in the office, that was all that was necessary for the purpose of investigation of the county clerk's office at the present time, as I said, and as you see it does not in any way involve or trench upon the decencies or proprieties, in view of the recent death of Mr. Reilly.

Senator FASSETT.— Right in this connection, before I get through, I want to take up the relations of the appointments in this office, as in every other department to the civil service.

Mr. GILROY.— Let me say to you before you go any further, that this is not a civil service office.

By Senator McNAUGHTON:

Q. In no part of the State? A. No; neither this nor the sheriff's office, nor the surrogate's office.

Q. So that the appointments there are made how? A. Entirely at the pleasure of the county clerk.

By Mr. IVINS:

Q. The parties are appointed and removed at his pleasure? A. Yes.

Q. He appoints whomsoever he pleases? A. Yes.

By Senator FASSETT:

Q. That is true of all appointments that he makes? A. Yes, sir.

Q. He appoints his own friends, or party friends, or another fellow's friends, or another fellow's party friends, or the best experts he finds, just as he chooses? A. Yes, sir; and I believe that statement is true of every county clerk's and sheriff's office in the State.

Q. There is nothing to guide him in the matter except his own will and his direct responsibility for the acts of his subordinates? A. Nothing more.

Adjourned to Monday morning, October 13, 1890, at 11 o'clock.



TUESDAY MORNING, *October 14, 1890.*

The committee met pursuant to adjournment.

Present — Senators Fassett, McNaughton and Ahearn.

Senator FASSETT.—I want to state before we take up the work this morning, Mr. Ivins, that Senator Stewart has been called to Europe by the death of his aunt, that unfortunate event leaving his mother, who is infirm, practically alone in Europe, and under those circumstances it seemed as if his nearest duty was to go at once to his mother; and he, in the judgment of the committee, did perfectly right. It was the only thing for him to do. In the meantime, of course, for the benefit of those who are interested, I want it understood that Senator McNaughton and myself constitute a quorum of the subcommittee, ready to go on now.

HENRY M. TATE, recalled:

Senator FASSETT.—Mr. Ivins, what do you call Mr. Tate in reference to now?

Mr. IVINS.—The register's office.

Senator FASSETT.—There were one or two matters in connection with the county clerk's office suggested while Mr. Gilroy was on the stand.

By Mr. IVINS:

Q. Have you got that work done, Mr. Tate? A. Yes, sir. [Witness produced paper.]

Q. This is an accurate memorandum of what you have found on the books of the city relative to the appropriations for the county clerk's office during the years 1884 and 1885, is it? A. Yes, sir.

The paper referred to was marked "Exhibit No. 1," of this date, and is as follows:

EXHIBIT No. 1 — OCTOBER FOURTEENTH.

· COUNTY CLERK'S OFFICE, 1884 AND 1885.

The fees paid into the city treasury by the county clerk during these years, exclusive of trial and extract fees, and stenographers' fees, were as follows :

	1884.	1885.
For certificate of official character.....	\$7,908 00	\$8,064 00
For judgment-rolls, certificates and sealing papers.....	2,739 99	2,924 41
For equity judgments.....	758 00	785 50
For transcripts .....	.....	795 84
Making a total of .....	<u>\$11,405 99</u>	<u>\$12,569 75</u>

The expenditures for salaries of regular employes, law and equity clerks, during these two years, are as follows:

	1884.		1885.	
	Number of clerks.	Amount.	Number of clerks.	Amount.
County clerk .....		\$3,000 00		\$3,000 00
Deputy county clerk .....		3,500 00		4,999 92
Assistant deputy county clerk .....		3,000 00		3,000 00
Mechanics' lien clerks .....		3,000 00		3,000 00
Docket clerk .....		3,000 00		3,000 00
Assistant docket clerk .....		2,500 00		2,499 96
Clerk of records .....		2,500 00		2,345 39
Bookkeeper .....		1,500 00		
Clerk in chancery .....		1,500 00		
Messenger .....		650 81		981 15
Recording clerks, at \$125 per month .....	2	3,000 00	1	1,500 00
Recording clerks, at \$100 per month .....	7-9	9,593 54	7-10	11,829 04
Recording clerks, at \$93.75 per month .....	2-3	3,281 25		
Recording clerks, at \$75 per month .....	1-2	975 00		
Recording clerks, at \$50 per month .....	1	600 00		
Recording clerks, at \$37.50 per month .....	1	450 00		
Recording clerks .....		56 66		
Chief recording clerk, 7 months .....		1,166 70		2,499 96
Lis pendens clerk .....				2,499 96
Certificate clerk .....				2,499 96
Assistant clerk of records .....				990 96
Record index clerk .....				999 96
Comparing clerks, \$125 per mo'th .....				4,500 00
Indexing corporation clerk .....				1,200 00
Clerk of incorporation records .....				999 96
Subpoena clerk .....				1,200 00
Copyist .....				999 96
Law clerk .....		3,500 00		3,500 00
Equity clerk .....		3,500 00		3,236 56
Total .....		\$50,273 96		\$61,291 74

COMPARATIVE STATEMENT OF FEES PAID INTO THE CITY TREASURY BY THE  
COUNTY CLERK, FROM JANUARY 1, 1884, TO OCTOBER 1, 1890.

*From all sources other than Regular and Extra Searches, Trial and Extract  
Fees and Stenographers' Fees.*

1884 .....	\$11,405 99
1885 .....	12,569 75
1886 .....	29,132 75
1887 .....	29,428 73
1888 .....	29,553 50

1889.....	\$33,049 64
1890.....	25,427 22

*From Regular Searches.*

1886.....	\$87,332 31
1887.....	88,595 56
1888.....	40,755 85
1889.....	20,786 17
1890.....	10,890 68

*For Extra Searches, less expenses charged on account of same.*

	1886.	1887.	1888.	1889.	1890.
Fees received.....	\$13,352 70	\$17,138 32	\$11,215 38	\$5,327 37	\$2,372 82
Less expenses charged .....	11,177 07	14,961 75	9,821 84	4,178 19	1,542 30
Am't paid into city treasury.	\$2,175 63	\$2,176 57	\$1,393 54	\$1,149 18	\$830 52

COMPARATIVE STATEMENT OF SALARIES PAID IN THE COUNTY CLERK'S OFFICE,  
FROM JANUARY 1, 1884, TO OCTOBER 1, 1890.

*County Clerk.*

1884.....	\$3,000 00
1885.....	3,000 00
1886.....	15,000 00
1887.....	15,000 00
1888.....	15,000 00
1889.....	15,000 00
1890.....	11,166 67

*Other Employes, exclusive of Searchers.*

1884.....	\$47,273 96
1885.....	58,291 74
1886.....	47,151 21
1887.....	52,479 55
1888.....	55,253 32
1889.....	56,510 99
1890.....	43,095 39

*Regular Searchers.*

1886.....	\$24,833 34
1887.....	25,916 65
1888.....	26,160 00
1889.....	21,757 24
1890.....	14,354 77

The fees paid and salaries charged to extra searchers are given above under "Fees received from extra searchers."

Q. What is meant here by the first total which you have struck, that is of \$11,405.99, in 1884, and \$12,569.75, in 1885? A. That represents fees that were received from various sources by the county clerk and paid into the city treasury for the years 1884 and 1885, respectively.

Q. The proceeds of all certificates, official in their character, were heretofore paid into the city treasury as they are now? A. Yes, sir; but with this addition; it seems from a comparison of returns which were made from 1886 down to the present time that there were certain fees which were retained by the county clerk in 1884 and 1885, which in the subsequent years were turned into the city treasury in each one of these different classifications.

Q. This simply represents the amount that was paid into the city treasury during the years 1884 and 1885 as the proceeds of certificates, official in their character, as the proceeds for judgment-rolls, certificates and sealing papers, equity judgments and transcripts? A. Yes, sir.

Q. Now those are still paid into the city treasury? A. Yes, sir.

Q. But others which might possibly be classified under the same head are now paid in under laws passed subsequent to this date? A. Yes, sir.

Q. At that time it would appear that there was appropriated to be paid out of the appropriations by the board of estimate and apportionment, and incident to the administration of the county clerk's office in the year 1884, \$50,273.96? A. Yes, sir.

By Senator FASSETT:

Q. Is that right; were those expenses met from a public appropriation? A. Yes, sir.

By Mr. IVINS:

Q. And in 1885 that appropriation was \$61,291.74? A. Yes, sir.

Senator FASSETT.—Mr. Ivins do you notice what causes that \$10,000 increase between 1884 and 1885? The chief recording clerk for seven months in 1884 received 1,166.70; in 1885, 2,499.96.

By Mr. IVINS:

Q. These recording clerks spoken of here are those who were recording on old records, are they? A. No, sir; they are recording clerks engaged in the county work purely, in the county clerk's office.



By Senator FASSETT:

Q. The *lis pendens* clerk is new, the certificate clerk is new, the assistant clerk of records, the record index clerk, comparing clerks, indexing and corporation clerk, clerk of incorporation records, subpoena clerk, copyist; all those were new for 1885? A. Yes, sir.

By Mr. IVINS:

Q. Did you discover anything in the records to explain that increase in the force? A. I did not see anything that would explain it.

Q. Do you know whether that increase in force was retained and is still maintained? A. A reference to the exhibit which I made at the last examination, I think, will determine that point.

Q. I notice no charge made to the city for the service of searchers in the years 1884 and 1885? A. There were no searchers at that time; the searchers' fees were the perquisite of the county clerk.

Mr. IVINS.—They at that time belonged to the county clerk and it was to throw those into the public treasury, among other things, that the bill of 1884 was passed; now, if you will turn to the sixth page of this report, you will find the supplement to that; it appears from this that there was paid into the city treasury from all sources other than regular and extra searches, trial and extract fees, and stenographers' fees, in 1884, \$11,405.99; in 1885, \$12,569.75; in 1886, when the new law went into operation, \$29,132.78; in 1887, \$29,428.73; in 1888, \$29,553.50; in 1889, \$33,049.64, and in 1890 to date, \$25,427.22.

Q. That all covers business which is not in any way affected by the new title companies? A. Yes, sir.

Q. Now, as to the business which is affected by the new title companies, that is regular searches, we find that none of these fees were paid into the city treasury prior to 1886; for the year 1886, however, under the operation of the law of 1884, the first of these fees were paid in; they were \$87,332.31; in 1887, there were \$88,595.56; in 1888, there were \$40,755.85; in 1889, \$20,786.17; in the first nine months of this year they have shown but \$10,890.

Senator FASSETT.—In other words, an annual diminution of fifty per cent.

Mr. IVINS.—Right along since diminution began. They reached their maximum in 1887. In 1888 it was only one-half of what it was in 1887. Now, from extra searches, less expense charges on account of same, the extra searches fees received in the office in 1886, were \$13,352.70; in 1887, the extra searches fees received in the office were \$17,138.32; nevertheless, the amounts paid into the city treasury, although there was a difference of proximately \$4,000 in the gross fees

received were identical in those two years. That is, \$2,175 in one year and \$2,176 in the next year. Those extra fees fell off \$11,215 in 1888, of which gross sum there was paid into the city treasury, \$1,393. They, like the other fees, fell off again in 1889 to \$5,327, and of that sum \$1,149 was paid into the city treasury. In other words, there was a larger proportion of the fees paid into the city treasury when there were only \$5,327, than were paid in when there were \$17,138. This year up to date the fees show for nine months but \$2,372, of which \$830 have been paid into the city treasury.

Senator FASSETT.—Did he find anything to explain that?

The WITNESS.—Well, that was explained by the percentage arrangement.

Q. The percentage would remain the same no matter what the actual cost of service was? A. Yes, sir.

Q. Even if that were the case, Mr. Tate, is it not inexplicable, because twelve per cent of \$13,352 and twelve per cent of \$17,138 will not be identical, will they? A. No, sir.

Q. Well, it appears to be identical by this statement, with a difference of a dollar? A. I was going to say that in the second year, 1887, there was a clerk included among the expenses incurred by the county clerk on account of extra services which diminished the amount to be paid into the city treasury by the sum which was paid to him.

Q. The next statement shows what the salaries paid in the clerk's office out of appropriation accounts were, from the years 1884 to 1890, including the county clerk's salary, which is entered by itself, and which was \$3,000 for each of the two former years, and thereafter it was \$15,000; then you find in 1884 the item of \$47,273, which corresponds with the item on the former page.

Senator FASSETT.—That is other employes exclusive of the searchers.

Mr. IVINS.—Yes; no regular searchers were paid in either of those two years. The county clerk's salary was increased by law to \$15,000 as against \$3,000 which had theretofore been paid out of the appropriations. Other employes, exclusive of searchers, increased from \$47,000 in 1884, to \$52,000 in 1887, \$55,000 in 1888, \$56,000 in 1889, and whatever sum has been appropriated for the present year, and on account of which appropriation only \$43,000 have as yet been spent. Nothing was paid the searchers during those two years, but in 1886 \$24,800 was paid to searchers, in 1887, \$25,900, and in 1888, \$26,100, in 1889, there is a decrease in the appropriation and expenditure to \$21,757.24.

Senator FASSETT.—In other words, all the work had fallen off for three years, at the rate of fifty per cent each year, from the preceding year, it cost within \$2,000 to do the work.

Mr. IVINS.— That is what the records show.

Senator FASSETT.— That is, the work amounted to one-quarter, and the cost came to within 3,000 of being the same.

Mr. IVINS.— The revenues to the city from that one source of searchers has almost entirely disappeared, and nevertheless the cost of governing that particular branch remains practically the same.

Senator FASSETT.— In 1885 this statement shows, Mr. Ivins, of fully \$10,000 of the expenses of the office, which did not appear in the year 1886.

Mr. IVINS.— Yes.

Senator FASSETT.— Caused by these high-sounding officials shown in the lower part of the paper.

Mr. IVINS.— At that time the *lis pendens* clerk, the certificate clerk, the assistant clerk of records, the record-index clerk, the comparing clerks, the indexing and incorporation clerk, clerk of incorporation records, subpoena clerk and copyist, were all put on the city pay-roll, whereas, theretofore, if there were any such officers they certainly were not on the city pay-roll.

Senator McNAUGHTON.— They were paid for by the clerk, were they?

Mr. IVINS.— No; they were paid for out of the appropriations made by the city, in 1885. That is the main feature you will notice as between those two tables.

Senator FASSETT.— I wish you would inquire whether any of these differences result from differences in bookkeeping.

By Mr. IVINS:

Q. Are these differences apparent or actual; that is, are they apparent as incident to a method of keeping the books, or was the method of keeping the books so far identical as to make these differences actual and not apparent? A. So far as I know there was no difference in the system of bookkeeping.

Mr. IVINS.— My own recollection is that that was practically the provision for so many new clerks in the office at that time. I know of no change in the method of bookkeeping in that regard. If it is found that there is any, it can very easily be proved; that is, we can very easily introduce evidence of it. This now enables us from what has been spread on our records to prepare a complete statement of the economies to the city or the failure of economy to the city, as incident to the enactment and enforcement of the Laws of 1884 and 1886.

Senator McNAUGHTON.— Mr. Ivins, there is one more point, is there not? Has Mr. Tate the items on which a decrease of fees was made by statute, and showing what the decrease is in the county clerk's office?

Mr. IVINS.—Yes. That is already shown in the statements already in.

Senator FASSETT.—That would not affect the statement of 1886 as compared with other years, because it took effect in 1886.

Senator McNAUGHTON.—When did that law reducing fees take effect, in 1886?

Senator FASSETT.—The law of 1884 reduced the fees.

Mr. IVINS.—The law of 1884 reduced the fees, the law of 1886 did not. But you have no basis of comparison there, because the fees prior to 1886, were not subject to either estimate or calculation, being the personal property of the county clerk, but during the years for which it is possible to establish that comparison there has been no change in the rate of fees. You can not establish a comparison at any time prior to 1886, going back no matter how far, because those fees were not accounted for, and there are no records in the office to show.

Senator McNAUGHTON.—As it is now the clerk is obliged to charge arbitrary fees for searches. He has no discretion.

Mr. IVINS.—None whatever; the fees are fixed by statute.

Senator FASSETT.—There is another item in which there is an apparent dispute between Mr. Tate and Mr. Gilroy.

The WITNESS.—I have not looked over the stenographer's minutes on that subject.

Senator FASSETT.—When you look over the minutes and want to make a statement, we will take it.

By Mr. IVINS:

Q. Mr. Tate, have you made an examination of the receipts and expenditures of the register's office? A. Yes, sir.

Senator McNAUGHTON.—There may be some other matter we want to inquire about in the county clerk's office.

Mr. IVINS.—I understand if there be any others they shall be passed for the present, at least. For instance, the personnel of the office, as at present constituted, was the work of the late County Clerk Reilly, and his successor will not be responsible for those persons, as I understand it, in case he sees fit to make changes and it is not proper for us now to investigate, and it could result in no possible use to investigate the manner in which Mr. Reilly made his appointments. As to the particular duties of each of these clerks that will be taken up at some time later on, and another matter will have to be called to your attention as incident to one of the decisions of the Court of Appeals in a very recent case to the effect that certain of the records of the county clerk's office, not only in this county but in many other counties of this State, are such as to virtually exclude them from being used as official records, and it is a



matter for which, as far as I can understand or see, no particular individual is in any sense blameworthy, and it arises from technical questions which have been raised now for the first time, but which nevertheless will demand correction. My attention has been called to it by several members of the bar; that is, as to the manner of entering judgment, but that need not come up in any form, and involves no investigation at all, the investigation having been done by the Court of Appeals.

Senator McNAUGHTON.— Does that apply to the sheriff's office as well?

Mr. IVINS.— No; not under these particular decisions. It is as to the manner and form of entering judgment and the proof of a judgment-roll. So, leaving the county clerk's office for the present, I propose now to take up the matter of the register's office; and in the register's office, when that investigation has been made, we will have as far as I can now see, all of the means for determining exactly what the expense to the city of New York has been of the work done under the provisions of that law for the preservation of old records; because that law included the preservation of all old records whatever, and we have already examined the question of their cost in the office of the board of aldermen; we have examined it in the office of the county clerk, and now, when we shall have examined it in the office of the register, so far as I know, that covers the three main items of the work.

The WITNESS.— Also the surrogate's office.

Mr. IVINS.— The surrogate's office; that has to be added; yes.

Senator FASSETT.— It seems to be up to the present time a very expensive luxury to keep these old records.

Senator McNAUGHTON.— Well, it is absolutely necessary those records should be kept for the benefit of coming generations.

Senator FASSETT.— It is not necessary to pay two dollars a page for each day.

By Mr. IVINS:

Q. Mr. Tate, in regard to the work of the office and the manner in which the work is done, the moneys received and entries made, I will pass that so far as you are concerned, because the register is here and will answer those questions himself? A. Very well.

Q. If this is accurate, nevertheless, I will have it marked and entered as being the result of your investigation of the general manner in which the office is organized, so far as the receipt and payment out of moneys is concerned, and the fees prescribed by statute [referring to a paper produced by the witness]? A. Yes, sir; that is accurate according to the information given me by either the register or his representative.

Mr. Ivins here read the paper referred to which was marked Exhibit No. 2 of this date, and is as follows:

EXHIBIT No. 2 — OCTOBER FOURTEENTH.

REGISTER'S OFFICE.

All the receipts of this office are entered daily in detail in cash books covering a period of one month each, showing from whom the money is received and designating the nature of the service. This is a book of original entry.

The "transcript and return of fees received by register" are copies of the cash books with the addition of a recapitulation showing the total income of the office from each particular source each day of the month, and giving the total for the month. Attached to this recapitulation is the oath of the register that this is a correct statement of all moneys received by him from all sources. Duplicates of these "transcripts and returns of fees received by the register" are filed monthly with the comptroller.

The moneys received by the register are deposited by him to his credit with the Union Trust Company of this city.

No disbursements are made by the register except the moneys paid as extra fees to the searchers for expedited searches. This sum is deducted each month from the total receipts, and the balance is paid to the city chamberlain.

A "search blotter" is kept, in which all fees for searches are entered when receipted, and classified as "regular" and "extra," with name of searcher where the search is expedited.

The "searchers accounts" is a record of payments made to each searcher for expediting searches.

The recording clerks are paid by the folio for their work by the comptroller upon duly verified vouchers based upon the recording clerks' books in which the copyist enters the papers received by him and the date of receipts, and when the work is completed the liber, page and number of folios.

All the fees are prescribed by statute, chapter 531 of the Laws of 1884.

Recording any instrument (copyist is paid 5 cents per folio) ..	\$0 10
Filing certificate of satisfaction piece.....	25
Entering minute of foreclosure mortgage.....	10
Filing bond of collector to receive taxes :.....	12
Searching for bond for same.....	06
Entering satisfaction thereof.....	12
Filing papers for safe-keeping .....	10
Searching for same .....	0

Sealing papers, each .....	\$0 12
Every certificate.....	25
Searching and certifying title .....	....
Copying papers .....	08
Filing chattel .....	06
Entering chattel to each party .....	06
Searching for each chattel .....	06

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Chapter 376, Laws of 1887, allows for searching and certifying title fifteen cents per year for each person, and when the search is expedited one-half fee in addition.

Mr. IVINS.— I should say here that we have the same difficulty prior to the year 1887, in regard to proving up what the income of this office was, that we had in regard to the county clerk's office prior to 1886, the law of 1884 not affecting this office until the year 1887. It affected the county clerk's office in 1886, but they differed, because the county clerk and the register are not elected in the same years here. The same year in which the law was passed making the county clerk's office a salaried office, there was a law passed making the register's office a salaried office. That is now as chapter 531 of the Laws of 1884. The first section of the act provided that the provisions of the law theretofore existing should remain in force until the expiration of the term of the then incumbent. That term expired the 1st of January, 1887, on which day Mr. J. J. Slevin became the register. Section second provided that hereafter and when this act should go into effect the salary of the register to be \$12,000 per annum, and should be in lieu of all fees, perquisites and emoluments for all services which the register might perform by virtue of his office. Section 3 provided that all fees should thereafter belong to the city. Section 4 of the fee bill which we have transcribed and which is entered on our minutes. I would say that I have taken no steps for the purpose of comparing this particular fee bill with the pre-existing fee bill, for the reason that the fees theretofore did not belong to the city and there was no account of them kept. Section 5 provided for an official bond. Section 6 provided for the expenses of conducting the office, and made those expenses a charge on the city. Section 7 provided the manner in which yearly estimates should be made by the board of estimate and apportionment, and the manner in which appropriations should be made. Section 8 provides that the duties of all clerks and employes of the office shall be such as the register of the city and county of New York shall designate and approve, subject to the revision of the board of estimate and apportionment, providing that the aggregate expenses of such salaries or

any expenses of said office in any year shall not exceed the amount appropriated by the board of estimate and apportionment for such purposes. That shows the relative powers of the register and the board of estimate and apportionment in regard to the employment of the subordinates in the office. Section 9 provided for a search to be made without delay upon a written order or requisition, and to be certified and ready for delivery within twenty days from the receipt of said order, and provided a penalty for all injuries and damages resulting from delay in completing such order or requisitions. It seems that the latter clause differentiates the statute in regard to the register's office from the statute in regard to the county clerk's office. Section 10 provides the manner in which the account of fees shall be kept; Section 11 provides the manner in which transcripts of accounts are to be transmitted to the comptroller. Section 12 provides certain penalties, and section 13 is the repealing section. In 1887 there was a law passed known as chapter 376 of the laws of that year, which amended the law of 1884 in the manner of expediting searches, the time within which searches shall be returned and provision for the payment of expedition fees. It provided in event of the register being called upon to return searches within fifteen days, and additional charges should be made by him of one-half the regular fees, and directing him to pay such additional fees into the treasury except the actual expenses, including additional compensation to employes, as hereinafter provided, incurred by the register to meet the payment required to carry out the provisions of the section. Now, reference to these two statutes gives us the present legal basis for the administration of the office. I have stated this as a point of departure before we can take up the consideration of the work in this office.

Q. Now, is this your report of the financial administration of the office, and are the figures in that report correct, as shown by comparison with the books of the office [referring to a paper produced by the witness]? A. Yes, sir.

Paper referred to was marked Exhibit No. 3, of this date, and is as follows:

EXHIBIT No 3—OCTOBER 14, 1890.

*Supplementary examination of Register's office, covering the period from January 1, 1887, to January 1, 1890, and giving pay-roll of present incumbent:*

Salaries of employes of register's office for the year 1890, based upon the pay-roll for the month of March, 1890:

Frank T. Fitzgerald, register .....	\$12,000 00
James A. Hanley, deputy register .....	5,000 00



John E. Fitzgerald, assistant deputy register .....	\$3,000 00
Frank P. Young, satisfaction clerk .....	3,000 00
Michael Grady, tickler clerk .....	1,600 00
James V. Lynch, grantee clerk .....	1,500 00
Henry J. Comaskey, chattel mortgage .....	1,300 00
Chas. E. Baldwin, search clerk .....	1,200 00
Geo. Achenbach, account clerk .....	1,200 00
James Hynes, chief recording .....	1,800 00
Edward F. Smith, examiner .....	1,500 00
Robert A. White, examiner .....	1,300 00
John H. Andrews, examiner .....	1,200 00
John J. Coyle, reader .....	1,200 00
Wm. C. Murtha, reader .....	1,200 00
Edward Hogan, Jr., reader .....	1,000 00
John Pyne, delivery clerk .....	1,500 00
Joseph A. J. Drew, delivery clerk .....	1,200 00
Henry W. Murphy, index clerk .....	1,300 00
Horatio G. Moline, index clerk .....	1,200 00
James A. Hamilton, index clerk .....	1,200 00
Thomas B. Fitzpatrick, index clerk .....	1,200 00
Joseph F. Pendergast, index clerk .....	1,200 00
John H. Curley, index clerk .....	1,000 00
Wm. H. Sinnott, temporary clerk .....	400 00
Hugh Duffy, certificate copy clerk .....	1,000 00
Marcus O'Donnell, map clerk .....	1,200 00
Frank J. Wilford .....	1,200 00
Michael Hart, map clerk .....	1,000 00
Frances Grimes, record clerk, powers attorney .....	1,000 00
Henry Driscoll, recording clerk, religious incorporation .....	1,000 00
John L. Meagher, recording clerk, discharging mortgages .....	900 00
Edward F. Sheahan, recording clerk, discharging mortgages .....	900 00
Patrick J. Delaney, recording clerk, discharging mortgages .....	9,00 00
Matthew H. Moore, custodian .....	1,500 00
Emanuel Mandelsohn, custodian .....	1,200 00
Matthew Gilligan, custodian .....	1,000 00
John McDonough, custodian .....	1,000 00
Daniel A. Bostwick, Jr .....	1,000 00
Frank H. Gilhooly, custodian .....	1,000 00
John J. Moloney, custodian .....	1,000 00

John Hernan, custodian .....	\$900 00
Philip J. Fitzgibbon, watchman.....	900 00
James Langan, watchman .....	900 00
John Mulholland, messenger.....	900 00
Philip V. Walsh, messenger.....	900 00
Thomas Quinn, messenger.....	720 00
George F. Brennan, searcher .....	2,500 00
Edward F. Egbert, searcher.....	2,500 00
Edward J. Keech, searcher .....	2,500 00
David F. O'Connor, searcher.....	2,500 00
Abbott M. Ulman, searcher .....	2,500 00
John A. Boyle, searcher.....	2,500 00
Philip J. Britt, searcher.....	2,000 00
John A. Slevin, searcher.....	2,000 00
Recording clerks at five cents per folio, fifty-eight, \$2,661.55; assuming this to be the average for twelve months .....	31,938 60
<b>Total.....</b>	<b>\$121,658 60</b>

Fees received by register from January 1, 1887, to January 1, 1890:

YEAR.	Satisfaction of mort- gages.	Papers.	Chattels.	SEARCHES.		Total.
				Regular.	Extra.	
1887 ...	\$10,326 96	\$74,286 60	\$7,023 92	\$51,956 41	\$12,335 46	\$155,929 36
1888 ....	10,290 27	71,094 87	7,376 39	22,761 00	6,988 96	118,511 49
1889 ....	11,719 20	82,131 01	7,862 82	12,442 24	3,225 41	117,380 68

Salaries paid to employes in register's office from January 1, 1887, to January 1, 1890:

1887.

Register .....	\$12,000 00
Deputy register .....	4,999 92
Assistant deputy register.....	3,000 00
Satisfaction clerk.....	3,000 00
Tickler clerk .....	1,500 00
Grantee clerk .....	1,385 48
Chattel mortgage clerk.....	1,500 00
Examiner, part of time, two.....	2,049 96
Clerk.....	1,400 00

Delivery clerk.....	\$1,500 00	
Index clerk, three .....	3,347 17	
Reader, part of time, two.....	1,166 62	
Map clerk, part of time, two .....	1,360 47	
Blotter clerk .....	999 96	
Clerk, satisfaction mortgages .....	636 79	
Custodian, one to six.....	3,321 80	
Watchman, two.....	1,599 84	
Messenger .....	763 37	
	<hr/>	\$45,581 38
Searchers, twelve to eighteen ....		37,858 53
Recording clerks, thirty-one to fifty-eight, paid after middle of February, at five cents per folio.....		28,729 84
	<hr/>	
Total.....		\$112,169 75
For expediting searches:		
Chief of search bureau .....	\$1,808 29	
Searchers.....	6,158 66	
Reader .....	166 66	
Custodian conveyance index .....	65 32	
	<hr/>	8,198 93
Total.....		\$120,368 68
	<hr/>	<hr/>

1888.

Register .....	\$12,000 00
Deputy register .....	4,999 92
Assistant deputy register.....	3,000 00
Satisfaction clerk.....	3,000 00
Tickler clerk .....	1,500 00
Grantee clerk .....	1,500 00
Chattel mortgage clerk.....	1,500 00
Examiner, two .....	2,949 96
Reader, part of time, three....	2,800 00
Search clerk .....	1,500 00
Delivery clerk, part of time, two .....	2,500 00
Index clerk, part of time, six.....	7,100 00
May clerk, two .....	2,400 00
Clerk, satisfaction mortgages, two.....	1,795 63
Custodian, part of time, seven.....	7,847 11
Watchmen, two.....	1,800 00
Messenger .....	900 00
Account clerk .....	919 35

Chief of search bureau .....	\$2,624 94
Certified copy clerk .....	633 33
Searchers, sixteen .....	37,724 22
Recording clerks, forty-two to fort-seven, paid at five cents per folio .....	28,008 70

## For expediting searches:

Chief of search bureau .....	\$874 98
Searchers .....	3,482 17
	<u>4,357 15</u>

Total .....	<u><u>\$133,360 31</u></u>
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1889.

Register .....	\$12,000 00
Deputy register .....	4,865 51
Assistant deputy register .....	3,000 00
Satisfaction clerk .....	3,000 00
Tickler clerk .....	1,500 00
Grantee clerk .....	1,500 00
Chattel mortgage clerk .....	1,500 00
Search clerk .....	433 33
Account clerk, part of time, two .....	1,274 19
Examiner, two .....	2,949 96
Reader, part of time, three .....	2,829 03
Delivery clerk, two .....	2,700 00
Index clerk, five .....	6,300 00
Certified copy clerk .....	1,200 00
Map clerk, two .....	2,400 00
Clerk, satisfaction of mortgages, two .....	1,999 92
Custodian, seven .....	8,099 88
Watchman, part of time, three .....	1,991 13
Messenger, part of time, two .....	1,091 13
Chief of search bureau .....	3,499 92
Searcher, ten to twelve .....	25,916 06
Recording clerks, forty-one to fifty-seven, paid at five cents per folio .....	33,390 95

Total .....	<u><u>\$123,441 01</u></u>
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## For expediting searches:

Searchers .....	<u>1,607 50</u>
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Total .....	<u><u>\$125,048 51</u></u>
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## 1887.

Total receipts .....	\$155,929 36
Total payments for salaries and expedited searches.....	120,368 68
Gain for 1887 .....	35,560 68

## 1888.

Total receipts .....	\$118,511 49
Total payments for salaries and expedited searches ....	133,360 31
Loss for 1888.....	14,848 82

## 1889.

Total receipts .....	\$117,380 68
Total payments for salaries and expedited searches.....	125,048 51
Loss for 1889.....	7,667 83

## REGULAR SEARCHES.

Received for fees in 1887 .....	\$51,956 41
Paid to searchers.....	37,858 53
Gain for 1887 .....	14,097 88

Received for fees in 1888 .....	\$22,761 00
Paid to searchers.....	37,724 22
Loss for 1888 .....	14,963 22

Received for fees in 1889 .....	\$12,442 24
Paid to searchers.....	25,916 06
Loss for 1889.....	13,473 82

Salaries of employes in register's office other than searchers and recording clerks:

1887.....	\$45,581 38
1888.....	63,270 24
1889.....	64,134 00
1890, based on pay-roll for March, 1890 .....	70,720 00

Q. Mr. Tate, on what date was that made? A. That covers the accounts in the office from the 1st of January, 1887, to the 1st of January, 1890.

Q. Now, for the year 1890, you have gone through the books to the first of October? A. Yes, sir.

Q. And this is the result [referring to a paper produced by the witness]? A. Yes, sir.

Paper referred to was marked Exhibit No. 4 of this date, and is as follows:

EXHIBIT No. 4 — OCTOBER 14, 1890.

REGISTER'S OFFICE — SUPPLEMENTARY STATEMENT FROM JANUARY 1, 1890,  
TO OCTOBER 1, 1890.

Amount paid for salaries of register and other employes,	\$55,867 11
Amount paid for salaries of regular searchers, eight....	14,550 28

Amount paid for expediting searches:

Searchers .....	\$810 02	
Bookkeeper .....	569 98	
Watchman .....	76 00	
		<u>1,456 00</u>

Amount paid to recording clerks, fifty-one to sixty-six ..	24,541 80
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Making a total of .....	<u>\$96,415 19</u>
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Fees received by register from January 1, 1890, to October 1, 1890, were as follows:

From satisfaction of mortgages .....	\$9,076 22
Papers .....	63,611 44
Chattels .....	6,190 74
Regular searches .....	6,507 06
Extra searches .....	1,619 63

Making a total of .....	<u>\$87,005 09</u>
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Excess of salaries, etc., paid over fees received from January 1, 1890, to October 1, 1890 .....	<u>\$9,410 10</u>
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REGULAR SEARCHES.

Received for fees from January 1, 1890, to October 1, 1890 .....	\$6,507 06
Paid to searches .....	14,550 28

Making a loss of .....	<u>\$8,043 22</u>
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Q. We will take that report a moment, Mr. Tate; are we correct in understanding that the total expenditure for salaries of the register and other employes in the office, including the amount paid to recording clerks, will, upon the basis of expenditure for this year to date, be \$96,415.19 for the year? A. From the 1st of January, 1890, to the 1st of October, 1890.

Q. That is not to date? A. Yes, sir; and one quarter would be added to make up the remainder of the year, assuming the expenses for the remaining three months are in the same proportions; \$24,000 would be added, which would make \$121,000.

Q. That is an estimate on fees received by the register from January 1, 1890, to October 1, 1890, making a total of \$87,005? A. Yes, sir.

Q. An excess of salaries paid over fees received up to date of \$9,410? A. Yes, sir.

Q. That shows the loss of the office? A. Yes, sir.

Q. On this item? A. Yes, sir.

Q. For the first nine months of this year? A. Yes, sir.

Q. For these nine months, there was received for regular searches, \$6,507, making, with the fees paid, \$14,550? A. Yes, sir.

Q. Showing that it cost the city \$8,043 more to have these searches made than the city receives in return for making the searches? A. Yes, sir.

Q. Showing in that case that that particular fee bill is now sufficient to compensate the city for doing the work by this difference? A. Yes, sir.

By Senator FASSETT:

Q. It may show that they pay more men to do the work than is necessary? A. Yes, sir; of course, this was on the assumption that the number of employes are necessary to do the work; then the fee is insufficient.

By Mr. IVINS:

Q. That refers to the regular fees? A. Yes, sir.

Q. And makes no reference whatever to the fees for expediting searches? A. No, sir.

Q. That brings us to this question of the expedition fees? A. The manner of expediting searches you will find at the beginning of the report.

Q. From this report it appears that up to date, that is, during the first nine months of this year, there has been received by the city for extra searches \$1,619; is that correct? A. 1,619.63 is the amount received by the register.

Q. As against which there has been paid by the register \$1,456; if that be correct, it shows that none of the business virtually has fallen under the expedition law.

Register FITZGERALD.— It will take a little time to explain that. As soon as I get on the stand I will explain that thoroughly.

Mr. IVINS.— Then we will pass that until Mr. Fitzgerald is called.

Q. Now, Mr. Tate, in the matter of the preservation of public records, this is your report, is it [Referring to a paper produced by the witness]? A. Yes, sir.

The paper referred to was marked Exhibit No. 5 of this date, and is as follows:

EXHIBIT No. 5 — OCTOBER 14, 1890.

REGISTER'S OFFICE — PRESERVATION OF THE PUBLIC RECORDS.

This work is done under chapter 57, Laws of 1883, as follows:

SECTION 1.— Whenever, by reason of age, exposure or any casualty, any public records, maps or papers in the custody of the county clerk, surrogate, register or other county officer in the county of New York, shall become mutilated, obliterated or rendered unfit for public service, it shall be the duty of the officer having the official custody or control of any such records, maps or papers, to cause copies thereof to be made and certified for the public use, and the officer making such transcripts or copies shall be paid a sum as may be just, but which in no case shall exceed a sum to be certified by a justice of the Supreme Court for the first judicial district, to be reasonable for the service rendered. And no payment shall be made for any service rendered under this act until the work shall be examined and approved of as to the manner and form of execution by a justice of the Supreme Court of the said first district, nor shall any such work be done until a justice of the Supreme Court of the first judicial district shall, after an examination, certify that such work is necessary for the security and safety of the public records; and such new copies when so made and approved shall, for all purposes, take the place of the original records.

The expenditures for copying and comparing from July 1883, the date of the beginning of the work, to May 26, 1890, have been as follows:

1883.

Examiner, \$125 per month.....	\$750 00	
Recording clerks — 10 to 17—\$100 per month,	8,038 70	
Reader, \$100 per month .....	600 00	
	<hr/>	\$9,388 70

1884.

Examiner, \$125 per month.....	\$1,500 00	
Reader, \$100 per month .....	1,000 00	
Recording clerk — 17 to 18 — \$100 per month,	18,176 61	
Map clerk .....	100 00	
	<hr/>	20,776 61



1885.

Examiner, \$125 per month . . . . .	\$1,500 00	
Readers — 1 to 2 — \$100 per month . . . . .	1,900 00	
Recording clerks — 16 to 20 — \$100 per month, . . . . .	21,867 74	
Index clerks — 7 to 8 — \$100 per month . . . . .	8,700 00	
Map clerks — 2 — \$100 per month . . . . .	2,400 00	
		<hr/>
		\$36,467 74

1886.

Examiner, \$125 per month . . . . .	\$1,467 74	
Readers, \$100 per month . . . . .	2,096 78	
Recording clerks — 9 to 19 — \$100 per month, . . . . .	18,732 29	
Index clerks — 1 to 7 — \$100 per month . . . . .	5,790 34	
Map clerks — 1 to 2 — \$100 per month . . . . .	2,212 90	
		<hr/>
		30,300 05

1887.

Examiner, \$125 per month . . . . .	\$1,087 50	
Recording clerks — 15 to 27 — \$100 per month, . . . . .	26,970 12	
		<hr/>
		28,057 62

1888.

Recording clerks — 23 to 26 — \$100 per month . . . . .	28,771 77	
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1889.

Recording clerks, examiners and readers — 18 to 26 — \$100 per month . . . . .	24,970 21	
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1890, to MAY 26.

Recording clerks, examiners and readers — 15 to 22 — \$100 per month . . . . .	9,608 47	
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Estimated for month of May, making a total of . . . . . \$188,341 17  
for recording, comparing and putting in maps.

The total number of pages completed to May 26, 1890, is 170,602, making the average cost per page one dollar and fourteen cents.

Mr. IVINS.— This work of preserving the public records in this case as in the case of the aldermanic records and the county clerk's office, is provided for by the Laws of 1883.

Q. This statement is the result of an examination of the official records of the register's office, is it not [Referring to paper produced by the witness]? A. The pay-roll is the result of an examination of the pay-rolls in the comptroller's office.

Paper referred to was marked Exhibit No. 6 of this date, and is as follows:

## EXHIBIT No. 6 — OCTOBER 14, 1890.

The following is the pay-roll of the clerks whose salaries are charged to "preservation of the public records," for the month of September, 1890.

	Per month.
J. Burns, examiner.....	\$125 00
J. W. Burns, recording clerk.....	100 00
J. D. Henderson, recording clerk.....	100 00
T. Boland, recording clerk.....	160 00
T. Wunderlich, recording clerk.....	100 00
J. U. Reilly, recording clerk.....	100 00
L. Arnstein, recording clerk.....	100 00
P. I. Garvey, recording clerk.....	100 00
P. H. McKenna, recording clerk.....	100 00
J. Brady, recording clerk.....	83 33
E. F. Starin, recording clerk.....	100 00
I. Amschel, recording clerk.....	100 00
D. J. Connell, indexer.....	100 00
J. J. Kirk, indexer.....	83 33
J. B. Kiernan, recording clerk.....	100 00
J. N. Lerscher, reader.....	100 00
J. O'Connor, reader.....	100 00
L. P. Smith, reader.....	100 00
B. F. Fitzpatrick, reader.....	100 00
E. K. Parris, reader.....	100 00
Total.....	<u>\$1,991 66</u>

Q. This shows what the elements of that expense are; it now appears that there is one examiner at \$125 per month, eleven recording clerks at \$100 per month as their fixed salary, one indexer at \$100 per month, and another indexer who received eighty-three dollars and thirty-three cents; does he receive \$100 per month also, J. J. Kirk? A. They are paid \$100 a month if they do the full amount of work; their regular salary would be \$100 per month.

Q. And there is another recording clerk at \$100 per month and five readers at \$100 per month each, making a monthly pay-roll of \$1,991, and making a possible pay-roll, dependent upon the manner in which the men do their work, slightly in excess of that; say in round numbers something in excess of \$2,000 per month for that service? A. Yes, sir.

Q. Now, this is the pay-roll of the recording clerks, is it not [Referring to paper produced by the witness]? A. That is the work of the recording clerks who are engaged upon the general work of the register's office, at five cents per folio.

Q. That being transcribed from the books in the office? A. From the pay-roll in the comptroller's office.

Q. Showing fifty-one clerks employed in this service, their work varying from sixty-eight folios per month, which is the lowest number of folios done by any of these clerks in this particular month, to 1,289 folios, which appears to be the largest number of folios done by any one clerk in this particular month; the total number of folios for the month being 27,974, which, at five cents per folio, makes the pay-roll for this service; that is, the regular recording work of the office, \$1,398, or, in round numbers, about \$600 less than the pay-roll for the preservation of the old records; this is for the month of September; Mr. Fitzgerald says this is a light month.

Mr. FITZGERALD.—We have had as high as 3,600.

The WITNESS.—The amount to recording clerks in January, \$3,109.65; February, \$2,576.40; March, \$2,661.55; April, \$3,067.25; in May, \$3,606.20; in June, \$3,168.65; in July, \$2,384.35; in August, \$2,569.05; in September, \$1,398.70.

By Senator FASSETT:

Q. About an average of \$2,800 a month? A. Yes, sir.

Q. An average number of employes of about fifty? A. It will average more than that; it will range from fifty-one to sixty-four, sixty-four being the highest number and fifty-one being the lowest employes.

Mr. IVINS.—That is all the formal accounting matter that I care to prove by Mr. Tate in regard to this office at the present time.

The last paper referred to was marked Exhibit No 7 of this date, and is as follows:

#### EXHIBIT No. 7.—OCTOBER 14, 1890.

#### REGISTER'S OFFICE — PAY-ROLL OF RECORDING CLERKS FOR MONTH OF SEPTEMBER, 1890, AT FIVE CENTS PER FOLIO.

	Folios.
Chas. M. Boyd.....	162
Michael P. Brady.....	358
James M. Brennan.....	954
Hugh Brady.....	98
John J. Boylan.....	138
Peter Barnett.....	803

	Folios.
Thos. W. Cashman.....	462
Michael J. Callahan.....	284
John J. Cunningham... ..	579
Edward A. Collins .....	404
Joseph A. Cassidy .....	314
Thos. F. Connolly.....	750
Wm. H. Dunlap .....	474
Harry G. Dale.....	546
Wm. H. Donnelly.....	614
Chas. L. Dodge .....	78
Jacob Feis.....	650
Alf. G. Finnessey.....	186
Thos. Finnell.....	951
Edward F. Fitzgerald.....	610
John P. Flood.....	258
John F. Gaffney.....	783
John J. Guilfoyle.....	1,289
Geo. W. Houghton.....	1,104
Michael T. Griffin.....	568
And. J. Kirk.....	492
Sam'l. Levner .....	436
James J. Leavy.....	68
Thos. C. McNulty.....	238
Thos. F. McDevitt.....	1,188
John J. Murray.....	424
Jacob W. Moore.....	854
Vincient J. McFeigne.....	120
Hugh J. McDonald .....	720
Edw. J. McCauley.....	298
John J. McKenna.....	714
James H. McGraw.....	862
Geo. McLaughlin.....	398
Ber. J. McGee. ....	817
Edward J. Murray.....	341
Patrick Moore.....	444
Homer Nelson.....	1,114
Edw. J. Nealon.....	484
John H. Norton.....	949
T. O. D. O'Callaghan.....	366
Francis C. Reilly.....	496
James H. Rodman.....	134



	Folios.
James Vincent.....	204
Chas. Wache.....	1,100
Frank Watts .....	853
Thos. McFall.....	553
	<hr/> 27,974
	.05
	<hr/> \$1,398 70
	<hr/> <hr/>

FRANK T. FITZGERALD, called as a witness, being duly sworn, testified as follows:

By Mr. IVINS:

Q. Mr. Fitzgerald, where do you live? A. Seventy-four Bench street.

Q. You are the register of this city and county? A. Yes, sir.

Q. How long have you been such register? A. Since the 1st of January, 1890.

Q. You were elected at the last election? A. Yes, sir.

Q. As the candidate and nominee of Tammany Hall? A. Yes, sir.

Q. You have heard the testimony of Mr. Tate here? A. Yes, sir.

Q. Mr. Tate who just preceded you? A. Yes, sir.

Q. So far as you have been able to tell by listening to that testimony, you have discovered no inaccuracies in it, have you? A. No, sir.

Q. Will you explain to the committee, first the duties of your office, the organization of the office, and the manner in which those duties are performed, and by whom? A. Well, do you want me to go back to the formation of the office, about 1813?

Q. Oh, no; just take up the office as it is to-day; this is not history; this is a photograph? A. Well, the office as at present constituted, is for the purpose of receiving for record all the conveyances and mortgages affecting the real estate in the county of New York; we also receive mortgages on personal property, chattel mortgages; also conditional bills of sale; the papers are recorded at length, with the exception of the chattel mortgages and the bills of sale in libers of conveyances and libers of mortgages; after those papers are recorded, that is the mortgages and conveyances, they receive the stamp of the register, and are returned.

By Senator FASSETT:

Q. Everything affecting the title to real estate is entered at length?

A. Everything in the county of New York

Q. And those papers which you have that are entered at length, are such papers as affect the title of real estate? A. And of course affecting the title to personal property in so far as it is mortgaged, chattel mortgages.

Q. You do not enter those chattel mortgages at length? A. No, sir; they are simply filed; the deeds of conveyances and the mortgages are recorded at length, and satisfactions of mortgages are also recorded at length.

By Senator McNAUGHTON:

Q. Contracts in regard to sale of land are recorded at length? A. Yes, sir; deeds and their necessary appendages, including, of course, the contracts in relation to property.

By Mr. IVINS:

Q. Will you go on, Mr. Register, with the explanation; that includes all the duties of the office, does it? A. That includes the different duties of the office; I may have left out some minor details.

Q. That includes all the duties of the office involving expenditures? A. Yes, sir.

Q. Now you have certain duties for searchers? A. Yes, sir.

Q. For performing such duties a certain rate of fees is fixed by the law of 1884? A. I think that the law of 1884, has been supplemented by chapter 376 of the Laws of 1887.

Q. I have that here; that is the chapter which is known as the law for expediting fees, etc.? A. Of course, the situation with reference to searchers' fees anterior to 1887, was this: The register's office was a feed office; that is, the register received the fees and retained them, paid the expenses of the office, and the surplus was his own; I should say the first register who took office as a salaried official was the register who went into office in 1887; now, then, in 1887, the office being a salaried one, the situation with reference to the searchers was simply this: The register had twenty days within which to return the searches; members of the bar found that the register was unable to do the work in that time for the simple reason that the office hours are from 9 to 4, and there was no contract made on behalf of the register with any of the searchers to get out this extra work after hours; in other words, if a member of the bar handed in a search, each search was taken up in its order as it was taken in the office, so that between the hours of 9 and 4 it was impossible to do the work; when the office was a feed office, the members of the bar had their own special searchers, their favorite searchers, and the search came addressed to them, of course, the requisition taking the usual course,

going in to the register first and then handed to the person designated on the search; well, that searcher could work until 10 or 11 o'clock at night if he pleased; he made a special contract with the person who desired to have the search made; now, when it was made a salaried office, that was done away with and the work could not be gotten out between 9 and 4, and no searcher would stay there after 4 o'clock, because it was not an object to him.

By Senator FASSETT:

Q. Who fixes the office hours? A. The statute.

Q. The statute makes a day's work for New York city six hours?  
A. From 9 to 4; yes, sir.

Q. With an hour for lunch, I suppose? A. I assume that goes.

By Mr. IVINS:

Q. Do you understand that that means the time for office work or the hours in which papers shall be filed in the office? A. The office should remain open from 9 to 4.

Q. Open for what purposes? A. I should like to see the statute; I do not care to quote it until I see the statute.

Q. Do you understand that the statute makes the hours for work from 9 till 4, or that the statute provides that the office shall be open for the public transaction of business from 9 till 4? A. If you will kindly let me see the statute, I will give you my legal interpretation of it.

Q. What is the practice? A. The practice is that our office opens for the reception of papers at 9 o'clock, and it closes at 4 o'clock; now, since I took office, I made a rule over there that the members of the bar should be allowed to remain as long as they pleased after 4 o'clock, if they chose to remain.

Q. How about your subordinates; do they stop work at 4 o'clock?  
A. Yes, sir; usually; not all of them; I have one subordinate that works till 10 o'clock.

Q. Is there any reason, other than that which is covered by the law, why they should not do a longer day's work if it were necessary? A. Well, I do not take that position about it; I assume that if we were rushed with work, if I went to my subordinates and said that it was necessary that they should stay there to get the work out, I think they would do it; I do not know as I would be legally obliged to do that.

Q. Do you know anything about the practice in banks with regard to opening at 10 and closing at 3 o'clock? A. No, sir; I do not know anything about it; I know that is the regulation.

Q. Have you ever been advised of the fact that while the banks open at 10 o'clock and close at 3 o'clock, that does not fix the hours of work of a bank clerk? A. I have not the slightest information on that subject.

Q. Do you think that eight hours is a fair day's work? A. For some men, I think it is.

Q. Do your men work so hard that six hours a day is exhaustive? A. I don't hardly think that is relevant.

Q. Oh, yes; I think it is relevant; why should a public servant who is doing a very light class of work, work less than the average man who is doing a heavy class of work? A. The law says the office shall open at 9 and close at 4.

By Senator FASSETT:

Q. What I want to get at is whether it is customary in this city to regard six hours as a day's work, not only in your department, but in other departments also? A. I don't know anything about any other department.

Q. But in your department, a day's work is considered six hours? A. From 9 till 4.

Q. And it is based upon the fact that the Consolidation Act, that is volume 2 of the Laws of 1882, say that the office shall be opened from 9 till 4, for the transaction of business? A. Yes, sir; I think that is it.

Q. Do you know of any other provision of law which limits a day's work, even by implication, from between the hours of 9 and 4? A. I understood there was a law of this State which declared a laborer's day's work to be eight hours.

Q. Yes; but that is not eight hours, from 9 to 4? A. No, it is not.

Q. Especially with an hour out for noon? A. I do not say that that is taken; I do not know whether it is or not.

By Mr. IVINS:

Q. If there were no law in the premises, would there be any reason why your clerks should not do the full eight hour's work? A. If there wasn't any law about it.

Q. Is your work so laborious that it is impossible for them to stand it?

Senator FASSETT.—The point is, is there anything in your work that is so laborious that a man could not stand over six hours?

The WITNESS.—It is mentally laborious.

Q. Which part is mentally laborious? A. For instance, the searcher's department.



Q. Do the searchers in your department search any more laboriously than the lawyer's clerks who go there? A. I don't know that they do.

Mr. IVINS.—I have been a lawyer's clerk myself, and have searched ten hours a day.

The WITNESS.—It is laborious in this day that the work makes it a mental strain.

Senator FASSETT.—Is it more of a mental strain under this law than it was under the old law?

The WITNESS.—I don't want to discuss philosophy.

Senator FASSETT.—We are not asking you to discuss philosophy.

By Mr. IVINS:

Q. Is mere copying laborious work? A. It is not laborious, it is exact work.

Q. Is the entry made from documents to be filed, work that a man can not stand for more than six hours a day? A. No; I do not think it is; of course, you understand I am proceeding under the Consolidation Act; I am not fixing the six hours.

By Senator McNAUGHTON:

Q. The point is this: Mr. Ivins admits that under the law you can not receive records before 10 or after 4 o'clock? A. Yes, sir.

Q. Now the question is this: Assuming that the clerks who receive the papers for record should act exactly under the statutes, should receive papers after 10 o'clock, and not after four, the question is, would it be against the Consolidation Act if you were to say to your clerk: "We expect you to be here in the morning at 8 o'clock, and work until five"? A. Oh, no; I don't think it would be against the law.

By Mr. IVINS:

Q. Your day's work usually ends at 4 o'clock, does it not? A. Well, not usually; I get to my office at 9 o'clock, and probably stay for two or three hours, and then go out, and then return and stay some days until 4 o'clock or 5 o'clock.

Q. How is it with Mr. Hanley? A. He is there until 4 o'clock or a little after, and sometimes until half-past 4.

Q. How is it with Mr. Fitzgerald and Mr. Young? A. They are there from 9 till 4.

Q. Then these salaries are from \$1,200 to \$3,000; are really salaries paid for six hours work a day; is that a fair statement? A. Yes, sir.

Q. Now we were talking of the organization of the office; you have a staff of clerks to report papers? A. Yes, sir.

Q. You have a staff of clerks to copy documents? A. Yes, sir.

Q. The papers which need to be preserved? A. Yes, sir.

Q. And you have several superior clerks who supervise the manner in which the work is done. A. Yes, sir.

Q. And that covers generally the organization of your office? A. Generally; yes, sir.

Q. Now who is Mr. James A. Hanley? A. Mr. Hanley is the deputy register.

Q. How long has he been deputy register? A. I think Mr. Hanley was deputy register under Mr. Reilly; Mr. Reilly was register prior to Mr. Slevin, from 1884 to 1887.

Senator FASSETT.—Which Reilly is this?

The WITNESS.—John Reilly.

Senator FASSETT.—Is he now commissioner of jurors?

The WITNESS.—No, sir.

Q. You then retained Mr. Hanley in the office because he has had a long experience there? A. I was going to say that Mr. Hanley was also deputy for Mr. Slevin for, I think, six or eight months.

Q. Mr. Hanley is a member of Tammany Hall, is he? A. I understand he is.

Q. Is he a leader in Tammany Hall, what you call a leader? A. I don't know as he is chairman of any of the committees; I have not heard that he was.

Q. He is a prominent man to the organization, is he not? A. I presume he is in his district; the fourteenth district.

Q. Who is Mr. John E. Fitzgerald? A. John E. Fitzgerald is my brother.

Q. He is the assistant deputy register? A. Yes, sir.

Q. Will you tell us what the duties of the assistant deputy register are? A. The duties of the deputy register are to receive and pass upon all papers as it is the duty of the register to receive and pass upon all papers presented for filing or recording in office, to receive the fees for the same and to see that they are entered properly in the books used for that purpose; the duties of the assistant deputy register are the same.

Q. You mean to say that they are properly acknowledged also? A. Yes, sir; if they are received for register.

Q. Do both of these gentlemen do the same class of business, or is the work divided into two classes between them, so that one class calls to one and the other class calls to the other? A. Well, that depends altogether upon the amount of work that appears at the desk; now, frequently at 2 o'clock, quite a line of lawyers is formed there for the purpose of recording papers; that is at about 2 o'clock, and

that continues on until 4; then one of them receives the cash and the other passes upon the acknowledgments.

Q. The civil service laws have no application to your office, have they? A. No, sir.

Q. Mr. Fitzgerald is also a member of Tammany Hall? A. Yes, sir.

Q. What is the total number of clerks employed in your office?

A. The regular staff is —

Senator FASSETT.—From fifty-one to sixty-four, isn't it?

The WITNESS.—From about sixty-one to sixty-four; then the recording clerks altogether depend upon the amount of work there is to do.

Senator FASSETT.—They average from eighteen to twenty-two, do they not?

The WITNESS.—No; I think there are more than that.

Q. The recording clerks numbered fifty-one? A. Do you mean the old records?

Senator FASSETT.—Your regular clerks run from fifty-one to sixty-four, and the old records, those clerks run from eighteen to twenty-two?

The WITNESS.—Yes, sir.

Q. Fifty-one to sixty-four a month? A. That is about the regular roll, too

Q. Say about sixty is a fair average for the regular roll? A. Yes, sir.

Q. And then you have on the preservation of old records twenty-one? A. Twenty-one; but that would depend altogether upon the work that was done; the old record work is done in this way; some years ago there was a regulation made that five pages a day of book of mortgages would constitute a day's work; the pages have got to be exact as to numbers and as to the matter; seven pages of an index was called a day's work.

Senator FASSETT.—We will take that up later.

The WITNESS.—Very well; I was going to explain how the number might be reduced.

Q. Excluding yourself, there are sixty-four other persons employed in the office, in addition to those we have just spoken of, I find by reference here? A. That is a transcript, is it, of last month's?

Q. Yes, sir. A. Yes, sir.

Q. So that the total number of persons employed in your office is, on the average, 135? A. I thought—that would include the old record; ancient records; yes.

Q. Including those for the preservation of old records? A. I think about that; yes, sir.

Q. Out of this 135 persons employed in your office, how many are not members of Tammany Hall? A. Well, with reference to that, Mr. Ivins, I could not say, and for this reason, for the past fifteen years the register has been identified with Tammany Hall; I think from Judge Low's time down, and there had not been many changes in the office when I took charge of it.

By Senator FASSETT:

Q. Most all Tammany men? A. Well, I —

By Mr. IVINS:

Q. Do you know of any case of any man in the office who is not a member of Tammany Hall; that office has been virtually in the family from Judge Low's time to date; has it not? A. In the Tammany family?

Q. Yes. A. I assume that it has; yes, sir.

Q. Do you know of any one man out of these 135 people who is not a member of Tammany Hall? A. Yes; I know of one, personal appointment of mine.

Q. Who is he? A. Mr. Brodsky's father.

Q. Mr. John E. Brodsky's father? A. Yes, sir.

Q. What does he do? A. He is a messenger there.

Q. And he is a Republican? A. I don't know what his politics are; his politics had nothing to do with the appointment; Mr. Brodsky and I have had offices for some time in the same building together, and it is purely outside of politics, altogether, the appointment.

By Senator McNAUGHTON:

Q. You spoke of John E. Brodsky; who is he? A. Well, Mr. Ivins said he was a Republican.

Mr. Ivins.— I asked if he was a Republican.

Q. Is he a Republican leader; recognized as that? A. I don't know what his status in the party is.

Senator FASSETT.— I regard him as a very bright, wide-awake young Republican; sound on most everything except this coalition ticket.

The WITNESS.— I think Mr. Fassett would be the best evidence on that point.

By Mr. IVINS:

Q. Do you know of anyone else in the office whom you know not to be a member of Tammany Hall? A. No, sir; I do not recall.

Q. Did you appoint Frank P. Young? A. Yes, sir.



Q. What was he; satisfaction clerk? A. Young, at present, is satisfaction clerk; he was formerly a searcher in the office.

Q. How long was he a searcher in the office before you appointed him for this place? A. Well, I think he was a searcher for three years; I am not quite certain about that.

Q. I do not think it will be of profit to the committee to go through this list in detail, but I will ask you this question: Have you in the employ of the office and to whom you pay, directly or indirectly, salaries for performing any kind of service, anyone who is engaged in or interested in the liquor business? A. I think so; yes, sir.

Q. Is it not a fact that you have three or four men in the employ of your office who are engaged in the liquor business?

Senator FASSETT.—Do you mean who are carrying on the business in addition to this work?

Mr. IVINS.—Carrying on the liquor business in addition to this.

The WITNESS.—Well, I can not answer that; I don't know whether they are carrying on the liquor business or not; just name these people; then we will take it up in their order.

Senator FASSETT.—Liquor business or any other business, Mr. Ivins.

Mr. IVINS.—Liquor business or any other business.

The WITNESS.—I think Mr. Hart is one.

Q. Mr. Hart; who is he? A. He is a member of the Democratic organization in the first district.

Q. Does he own a liquor store? A. I don't know whether he owns one or not.

Q. Keep one? A. I can't tell you that; I understood that he was in the liquor business; I couldn't tell, you know, unless I saw his license.

Q. Did he keep one when you appointed him? A. I am not certain about that.

Q. What does he do in your office? A. I understand he is in the liquor business.

Senator FASSETT.—In your office?

Q. No; but in your office what does he do? A. He is a map clerk.

By Senator FASSETT:

Q. What are the duties of a map clerk? A. Draw maps.

By Mr. IVINS:

Q. Does he draw maps? A. I assume so; if he didn't we wouldn't have him there.

Q. Do you know of your own knowledge, whether he does or not, or is that one of the matters left to your subordinates to discover? A. Well, of my own knowledge I don't know.

Q. Now, who ought to know? A. Mr.—if you will let me see that roll, I will tell you; I know the name very well, but I don't just recall it [examines paper]; Mr. O'Donnell.

Q. Mr. Hart is a member of Tammany Hall, is he not? A. Yes, sir.

Q. Now, who else is in your office who is, directly or indirectly, at present engaged in the liquor business, so far as you know? A. I do not recall anybody; if you will name them, I can tell you.

Senator FASSETT.—Just read down the list.

Mr. IVINS.—If you will look over the list that will help you. [Presents list to witness.] I do not want to have to take the list and go through it in detail to find the antecedents of each man.

Senator FASSETT.—I suppose, Mr. Ivins, one object of your inquiry is to know whether they are devoting their entire time to this..

Mr. IVINS.—Whether they are devoting their entire time to this. It is very easy for them to be in two businesses, in view of the fact that they have a short day's work here.

Q. Who is that clerk named Comensky? A. He is the chattel mortgage clerk; he is not in the business; I am pretty certain he is not; he was formerly.

Q. He was formerly in that business? A. Not now.

Q. How recently was he engaged in the business? A. I suppose, before I appointed him.

Q. Before you appointed him; where was his place of business? A. He had no place of business, as I understand it; he was in the employ —

By Senator FASSETT:

Q. Barkeeper? A. Barkeeper; yes.

By Mr. IVINS:

Q. So that Mr. Comensky graduated from barkeeper to chattel mortgage clerk in your office, by appointment? A. Well, I don't say that; I don't say he graduated from anything to chattel mortgage clerk; I say this about him: He is one of the best penmen in the office, and discharges his duties properly and faithfully.

By Senator FASSETT:

Q. And does not conduct any outside business? A. And does not conduct any outside business; and it is a very important place, chattel mortgage clerk, and I had confidence in him and put him there; and he is one of the best penmen we have in the office.

By Senator McNAUGHTON:

Q. He is there during business hours? A. He is there longer than business hours; he gets there at 9 o'clock and does not leave until, may be, 9 or 10.

Q. In short, he attends to every duty faithfully and properly? A. Faithfully and properly; yes.

By Mr. IVINS:

Q. Is there anybody else in your office who was a bartender before he went into the office? A. I do not recall anybody.

Q. Just look the list over and be sure? A. There is not any on that list; no.

By Senator FASSETT:

Q. Are there any of your employes that are engaged in carrying on any other business, that you know of? A. No, sir; not that I know of; as I say, there have been very few changes there by reason of the —

Q. You never made it a subject of inquiry, did you, to see whether your clerks were engaged in other business? A. The only thing, I insist upon them being present during office hours, official hours; and that is all I care about it.

Q. And attending properly to their duties? A. To their duties; that is all; my business with them ceases.

By Mr. IVINS:

Q. Who supervises the manner in which they attend to their duties; you personally, or one of your subordinates? A. Well, I do personally, as far as I can.

By Senator FASSETT:

Q. Who distributes the work? A. Under my direction it is distributed.

Q. Yes; but by whom? A. By Mr. Hanley; I direct him what to do with reference to the distribution of the work.

Q. Now, look through this list, also, which you did not have before you, and see if you see any name there? [Presenting paper.] A. It is the old records; I have been over that; there is not anybody on that; if you think of anybody and you can recall them, I can tell you — tell you the truth.

Q. I do not think of any one; I have received several letters saying that there were a number of people now interested in, or who heretofore had been interested in, the liquor business, but who now serve under you or on your pay-rolls. A. I don't know who they are.

Q. I thought you could advise us; quite by chance I thought to ask you about Mr. Comensky. A. I am glad to tell you the truth about anything I have in my possession.

Q. You remember Mr. Hart; now, do you remember anyone else? A. I do not recall anyone; no, sir.

Q. Do you know of anyone in the office who, while being on your pay-rolls and receiving a salary for work done there, is, notwithstanding, in other business of any kind? A. I do not; I do not recall any, sir.

By Senator McNAUGHTON:

Q. And you don't know whether Mr. Hart conducts a liquor business or is simply interested as partner, silent or otherwise, in some business? A. I could not swear to it; no; as I remarked before, all I care about is that they shall be there during official hours; doesn't make any difference to me what they do after office hours.

By Mr. IVINS:

Q. Who is Thomas B. Fitzpatrick? A. If you will pardon me, let me have that roll. [Counsel presents paper to witness.] Fitzpatrick was there before I went in; I don't know anything about it.

Q. Do you know who he is? A. No, sir; I do not.

Q. Is he the son of ex-Alderman Fitzpatrick? A. No, sir; he is not.

Q. Is the son of ex-Alderman Fitzpatrick in your employ? A. Yes, sir.

Q. What does he do? A. He is on the ancient records.

Q. Does he copy ancient records? A. Yes, sir.

Q. Have you ever seen his handwriting? A. Well, I don't know as I made it an especial subject of investigation; we have examiners who pass upon all that writing, and on the certificate of the examiner I certify to the record; I don't know as his handwriting was especially picked out; he was there before I took office.

Q. This is B. F. Fitzpatrick? A. Yes, sir.

Q. You knew who he was when you took the office, did you not? A. I don't know as my attention was particularly called to him; as I remarked before, I have made very few changes in the office.

Q. Is this the Mr. Fitzpatrick who at one time was a member of the police force of this city? A. I could not tell you, sir; I don't know.

Q. Do you know whether this is the Mr. Fitzpatrick who was dismissed from the police force and who was charged with and tried for murder? A. I haven't any knowledge about it, sir.

Q. It is the son of ex-Alderman Fitzpatrick? A. I believe he is.

Q. Lives in the Fourth Assembly district? A. Yes, sir.



Q. If your attention were called to facts of that kind, would it lead to any inquiry as to his antecedents on your part? A. Well, as I say —

Senator McNAUGHTON.— Was he acquitted?

A. I had nothing to do with his appointment; he was there and not disturbed; he was there when I went in the office and he discharged his duties all right.

Q. Well, have you ever taken any steps to look up his record either in public or in criminal life? A. No, sir.

Q. Have you ever yourself checked off the manner in which he does his work? A. You mean personally.

Q. Yes. A. I assumed that I have, in this way; we have examiners over there who go through — of course, the committee will understand, and no doubt the counsel will understand, that I can't take every page of this ancient record and read it through; that would be an utter impossibility.

By Senator McNAUGHTON:

Q. Physical impossibility? A. Physical impossibility.

Mr. IVINS.— We understand that perfectly.

The WITNESS.— Well, I assume that his work has come under my supervision in this way: that it has been examined by the examiners; the examiners have certified to me that it is correct, and upon their certification I have signed the certificate.

By Senator FASSETT:

Q. That is, you have not —? A. I don't recall —

Q. Consciously made any exception in his favor? A. No; no more than I have in anybody else's.

Q. If his work has been passed upon favorably, it has been passed upon favorably as everybody's else work has been? A. Yes, sir.

Q. And if the examiner has favored him in any way, you would not know it? A. Well, I wouldn't know it, but I assume the examiner has not, because they are very exact documents.

Q. They are not good documents to have a man copying who has not a good handwriting; are they? A. No, sir; I would not retain anybody who did not have a good handwriting in copying them.

By Mr. IVINS:

Q. Do you mean to say now that, at the the time he was retained, and up to date, you have never heard anything about his career in this city? A. I have not, sir.

Q. It has never been brought to your attention in any way? A. No, sir; not in any possible way.

Q. In order that no injustice may be done Mr. Fitzpatrick in this matter, and that if he be not the man whom he has been identified to me as being, you know of no reason why he should not be called here as a witness; do you? A. Oh, not at all; as I say, I haven't any information about him at all; I don't know anything about him; Mr. Fitzpatrick was there when I took office, and, as I say, he was not disturbed.

Q. Well, now, will you explain to the committee how you, as register, and being fully possessed of the knowledge of the manner in which the work is done, how you explain the decrease in the income of the office as compared with the income in past years? A. Do you want that generally answered?

Q. Yes; just answer it generally; we have got the figures already, but if you will just answer generally the reasons why the income of the office has fallen off, as it has, so far as you know? A. Well, in every department of the register's office from which fees come, the profit to the city is, well, far beyond the appropriation which is made to do the work in that department, with one exception, and that is the searcher's department; now, you know there are three title companies in the city of New York—the German-American, the Lawyer's Title and Trust Company and the Title Guaranty Company; they offer as an inducement the insurance of a title and —

By Senator FASSETT:

Q. They guaranty the titles? A. They insure the title; for example: If there is any mistake, any flaw, or any speck on the title, the company binds itself to be responsible for that speck or flaw, and the consequence is with that inducement these companies have absolutely taken all the searching business from the register.

By Senator McNAUGHTON:

Q. Well, do they do work for a less sum than you do it for in your office? A. I could not say that; I don't know whether they do or not; I wrote them to find out.

Mr. IVINS.—He can not answer that for this reason: They charge a net sum for searching a title—

The WITNESS.—And passing it and all that.

Mr. IVINS.—And passing it. That includes the searching and the passing; searching in the county clerk's office and the searching in his office.

The WITNESS.—And then they give you a certificate of insurance, that if any search is made —

Senator McNAUGHTON.—And does that aggregate of it amount to more than he charges in his office.

Mr. IVINS.—That aggregate amounts to more than he charges in his office, but that aggregate of it is sufficient for doing the same class of work in the county clerk's office, plus the work of the conveyancer and the work of the lawyer passing upon the title. In other words, the people who are suffering most from the competition of these particular companies that we speak of, are the conveyancers and real estate lawyers, because the business which was theretofore done by them has gone into this new form, and this is only one item of the expense which they have to undergo before they make their complete gross charge covering the fee for all of the work.

The WITNESS.—The charges we make, of course, are settled by the act of 1887. My charge, for instance, five cents a year for each paper, making fifteen cents a year for each name and for each piece of property excepting where the property was contiguous; in that case one would carry the other with it.

By Senator McNAUGHTON:

Q. Are you responsible now for an error in a search? A. Well, I think that is an open question; the question has never been up; I am responsible for any mistakes of the searchers under me; if one of the searchers in the register's office should make a wrong return, accidentally leave off a mortgage or a conveyance, I would be responsible.

Q. You are responsible under the statute? A. Under the statute; yes, sir; that is an open question though; I do not participate in the fees of the office; the city take them all.

Q. That has never been tested? A. That has never been tested; in fact, I never heard of any mistakes.

Q. But on the face of the statute you would be responsible? A. On the face of the statute I would be —

By Mr. IVINS:

Q. You do not receive, either directly or indirectly, any sum in excess of \$12,000 per annum for the work done in or about that office? A. No, sir.

Q. That is the absolute gross amount received by you? A. Yes, sir; \$12,000; the fees go to the city.

Q. You personally are not, directly or indirectly, the beneficiary by the expedition fees, are you? A. No, sir; not in any way possible; of course those expedition fees are very small indeed; this year they

are about \$1,500; the city have received twenty per cent of the profit on those extra fees and the searchers receive half under the statute.

Q. I ask that question because there is a very erroneous opinion in the community to the effect that the revenues of that office are very much — I mean the revenues of the register individually, are very much in excess of what they actually are? A. Well, for the time ending the first of September the fees were, the extra fees were about \$1,619.63; that is for about eight or ten months; there is very little extra searching done there.

Q. Will you make any suggestion to the committee, looking towards legislation, which will restore that office to the position of a self-sustaining office? A. Well, if you want to restore it to a profitable office —

Q. Yes; make it a profitable office? A. The only recommendation I can make is to abolish the title companies; it would make \$200,000 a year then to the city.

Q. Have you any knowledge, either by hearsay or otherwise from your predecessors, or any of the clerks in your office who were with the predecessors, which would enable you to form a fair estimate of the income of the register under the old system? A. I do not recall anybody, sir, at the present, who could give that.

Q. You have heard it variously estimated from fifty to a hundred thousand dollars a year under the old system? A. The income of the office from fifty — you mean the net profit?

Q. I mean the net profit to the register individually? A. That is something that I could not form any opinion about for this reason; that there are not any papers over there that could direct either Mr. Slevin, my predecessor, or myself, as to the income of the office anterior to 1887, because all of those papers are the property of the register who was then in, and there is nothing on file that you could get a line on whereby —

Q. I asked you if you had ever had any means through anything that had been said to you by any prior incumbent in the office, that would enable you to make a fair estimate? A. No, sir; I never have.

Q. Would it not be possible to run that office, Mr. Fitzgerald, with a much smaller staff of searchers than you now have, in view of the decrease in the volume of searching done? A. There were last year twelve searchers; twelve searchers last year; that is, in 1889; there are at present eight; now I don't consider eight searchers too many for the city of New York to have, for this reason; that if the public should lose confidence in these title companies, naturally the volume of business would turn into the register.



Q. Then, it would be quite possible to provide sufficient new searchers, would it not? A. It might be, although that is a very open question; I understand this to be the situation, that when the budget is closed by the board of estimate and apportionment for any one year, it can not be reopened; I haven't given them any attention.

Q. I think you will find that that could be covered? A. Well, you probably know; you have had something to do with financial matters and you may know something about that.

By Senator FASSETT:

Q. Assuming it could be done; eight are more than you actually need to transact that business now in that department? A. I don't say eight are too many; I say the number was reduced last year from twelve to eight.

By Senator McNAUGHTON:

Q. Are the eight kept occupied now during the business hours? A. Yes, sir; the work is distributed, of course; some searches come in, one may take longer than another; it is pretty hard to graduate, the time that each search will take, you will understand, Senator.

Q. In Monroe county, the county clerk's office, which is equivalent to your office in duties, is kept open from 9 till 5 in the afternoon? A. Yes, sir.

Q. Do you think it would be an accommodation to business men, lawyers, men doing business with your office, if your office were kept open until 5 o'clock for receipt of papers for filing or record? A. If the question was settled with reference to that statute declaring the hour to be from 9 to 4.

Q. We assume now that your statement is correct; that it is to be open for the transaction of business from 9 to 4; suppose those were the words; suppose the statute were altered and were to be open for the transaction of business from 9 to 5; do you think the general public would be accommodated and interests subserved? A. I think that the conveyancing bar would be very much accommodated, for this reason, that lawyers have cases in court; the usual court hour is from half-past 10 till 3 in the afternoon, say, and I think in that way the conveyancing bar would be considerably accommodated, if the office was open till 5 o'clock.

Q. Don't you think the whole public would be accommodated in that way, just to lengthen the hours? A. Well, naturally so.

Q. Would any great injustice be done your clerks, suppose that they were to remain there until 5 o'clock? A. I don't think any injustice would be done, sir.

Q. Would it be a hardship? A. No; I don't think it would be a hardship.

Q. That would add one-sixth to the volume of work to be accomplished in each day? A. Yes, sir.

Q. By adding one more hour? A. Yes, sir; of course, you will understand that, the work, for instance, in the — the mortgages and deeds in New York are always increasing; they increase at the rate of about 12,000 a year; so that there wouldn't be any decrease in that department at all.

By Mr. IVINS:

Q. In that connection will you tell us what is being done by you and your office with regard to preparation for the change in the system which is to take place here on the first of January under the new law? A. You mean the block system?

Q. Yes. A. It was only towards the end of last month, September, that the board of estimate and apportionment made an appropriation for that work.

Q. What was the amount, in round figures, appropriated for it? A. The amount, in round figures, was — I don't know as I can be very exact about that; I think it is between \$15,000 and \$18,000; I am not quite certain without I had my papers at hand.

Q. What is proposed to be done with that money? A. Well, Mr. Olmstead, who they say is the father of this land transfer reform that is about to be introduced, and myself, had various consultations; it was really upon his figures that this appropriation was made; most of that money will be paid for books, and in that connection — you asked me what was being done; I am having prepared some models of books; in fact one of them is complete now, which will give direction to the printer or to whomsoever may have this work in preparing this, these different indexes, and the tax department haven't filed their maps as they are required to do in my office; they have not filed the land map of the city, as it is called.

Q. Have you made any requisition on them to file their maps? A. I have not beyond this, that I got an advice from them that when we were prepared to go on we might come over and trace the maps from advance sheets; that the maps were not ready yet.

Q. On whom is the obligation; on them or on you? A. The obligation is on the tax department to file the maps with the register before — that is, if you want to stand on technicality, the obligation is on the tax department.

Q. To file the map? A. To file these land maps.

Q. But you have to make a transcript of those maps, do you not?

A. We have got to prepare these block indexes which will disclose the fac simile of the different blocks of the city; as you understand the city is divided into thirteen sections; each section is divided into blocks; for instance, the first section takes that part of the city from the Battery east and west to Grand street on the east and then across to Watts street and then on to the North river and around in that fashion; there are 325 blocks in that section; now then, our duty is to reduce that section to paper; in placing the fac simile of the blocks, Mr. Olmstead's idea was that there should be about ten pages to each block.

Q. Was it proposed that the actual, original maps, which are documents of the tax department, should be deposited by the tax department and go out of the custody of the tax department to you, while that change was being made? A. The provision of law, as I remember it, was that the tax department should prepare these maps under the direction of the act of 1889, and amended by the act of 1890, that they should prepare these maps and file them with the register, and thereafter they were to be known as the land maps of the city of New York.

Q. Do you know whether any appropriation has been made for the tax department to enable that department to prepare maps? A. I know there was an appropriation.

Q. There was an appropriation? A. That is, I got it second-hand; I believe there was an appropriation made for that purpose.

Q. I am inquiring about this, because I have very recently heard a great deal of doubt expressed as to whether or not this work would be in readiness for the law really to go into force on the first of January. A. Well, the real trouble, Mr. Ivins — and Mr. Olmstead will back me up in this statement; I understand there was a great deal of fault found with the board of estimate; that they would never come together to make any appropriation for the work, and, as I say, it was only at the end of last month that this appropriation was made.

Q. Did you ever make any personal application for this appropriation? A. I did not; and, for this reason, that the tax department, in an informal way, advised us to wait, Mr. Olmstead keeping track of the matter; the tax department advised me, in an informal way, that they were not quite ready; the appropriation was not necessary, in fact, just yet; I understood that Mr. Olmstead, who, as you know, had a great deal to do with this act, and who is especially interested to see it put in force, had made different applications to the tax department, to the board of estimate, to find what the condition of the work was.

Q. Is it your judgment now that the work has progressed so rapidly that during the next two months and a half, and by the first of January, you will have all the preliminary steps taken so that the law can go into force? A. That is a very serious question; if it is not prepared there is not any way to record papers after the first of January; there is going to be an extraordinary effort to get them ready.

Q. Can they be got ready by an extraordinary effort? A. I think so; that is, by putting on a sufficient force.

Q. The result of failure, however, will be that for the time between the first of January and the time when the system is ready, we will have no means of recording documents in this city? A. No means of recording documents; that is, so far as indexing documents; you know it does not change the form of recording.

Q. I mean so far as indexing; not so far as recording; so far as indexing is concerned, because this simply takes the place of the old system of indices? A. Although there is a provision—I think the old alphabetical system is still kept in vogue under this law.

Q. If you have no further suggestions to make, I will run hurriedly through this list, and see who the different clerks in your office are, instead of calling each separately; Frank P. Young, satisfaction clerk? A. Yes.

Q. Did you appoint him? A. Yes, sir.

Q. What was his business prior to his appointment by you? A. His business was searcher in the office.

Q. Michael Grady? A. Michael Grady is the present ticket clerk; been in the office for some years.

Q. James V. Lynch? A. James V. Lynch is deceased.

Q. Richard J. Comasky? A. He is the chattel mortgage clerk.

Q. He is the one of whom we have just spoken? A. Yes, sir.

Q. Charles E. Baldwin? A. Charles E. Baldwin is the account clerk.

Q. Did you appoint him? A. Yes, sir.

Q. What was his business prior to his appointment? A. Engaged in the custom-house.

By Senator FASSETT:

Q. Who recommended him? A. Mr. Benjamin Wood.

By Mr. IVINS:

Q. That is Mr. Wood of the *New York News*? A. Yes, sir.

Q. George Achenbach? A. George Achenbach has been there before I took office.



Q. He is the account clerk? A. Yes, sir.

Q. Is that a peculiarly responsible or confidential position, in any way? A. It is a responsible position.

Q. Is it a confidential position? A. No; I regard the deputy and the assistant as the confidential positions in the office, because they take charge of the money.

Q. Do you know what Mr. Achenbach's business had been prior to his going in the office? A. No, sir; I do not.

Q. Who recommended his retention? A. I don't know as anybody recommended him.

Q. James Hynes? A. He was appointed by me.

Q. What was his business prior to appointment? A. I think he was in the undertaking business; I am not quite certain.

Q. And he is now chief recording clerk at \$1,800 a year? A. Yes, sir.

Q. Who recommended him? A. He is a personal appointment.

Q. What district does he live in? A. Lives in Mr. Purroy's.

Q. That is the twenty-third and twenty-fourth wards? A. Yes, sir.

Q. Mr. Purroy ask for his appointment? A. No, sir.

Q. Edward F. Smith? A. Edward F. Smith has been there for some years.

Q. He is examiner? A. Yes, sir.

Q. Robert A. Wood? A. He has been there for some time.

Q. John H. Andrews? A. He has been there for some time.

Q. Those are your three examiners and they have all been there some time? A. Yes, sir.

By Senator FASSETT:

Q. "Examiners," what does that mean? A. They compare the papers after the papers are written at length in the libers.

Q. Are these the examiners who pass upon the work of the subordinates? A. Yes, sir; examiners and readers.

By Mr. IVINS:

Q. What do you mean by "readers?" A. For example: A deed is sent up to be copied at length; after the deed is copied the reader takes it and reads it off and the examiner takes the liber and—

Q. That is, the two do the comparing? A. Yes, sir; you would have to have two to do it.

Q. Just as all ordinary comparing is done, by one person reading and the other listening? A. Yes, sir.

Q. You have three readers; Mr. Coyle, Mr. Murtha and Mr. Hogan? A. Yes, sir.

Q. Are they all old clerks? A. Well, yes; I think so.

Q. You did not appoint either of them? A. I do not just recall.

Q. Do you know what the business of Mr. Coyle was before he went into that department? A. No, sir.

Q. Know the business of Mr. Murtha? A. No, sir.

Q. Or of Mr. Hogan? A. No, sir.

Q. Who is Mr. Hogan; a son of Judge Hogan? A. Yes, sir.

Q. Judge Hogan is — A. Oh, yes; I appointed Hogan; that is right.

Q. Son of Judge Hogan? A. Yes, sir.

Q. He lives in this district that we are now in, does he not? A. No; he lives in Thirteenth street.

Q. John Pine? A. Mr. Pine has been there for some years.

Q. What is meant by "delivery clerk?" A. Delivery clerk is the gentleman who takes out the papers and leaves them with the lawyers, for example, you send a paper for record; at the bottom would be "record and return to Mr. Ivins, such and such a number;" Mr. Pine, after the comparing is done and the deed was passed upon, the register's certificate on it, would take it down to your office.

Q. Takes it to my office and gets the fee? A. No; The fee is paid.

Q. It runs if you carry an account? A. We don't carry on account; it is C. O. D.

Q. Then he has simply to deliver these papers to save the necessity on the part of the lawyers from coming up and getting them? A. Yes, sir.

Q. There is another — Joseph A. J. Drew — who is a delivery clerk also? A. Mr. Pine also assists the grantee clerk.

Q. Do you know of any reason why they should pay for sending these papers back to the lawyers instead of the lawyers sending up and getting them? A. Well, I don't know of any reason why the lawyers should not send for the papers; no.

By Senator FASSETT:

Q. If you had to pay the clerks out of your own pocket you would not do it, would you? A. Why, I don't — I think — certainly I would.

Q. You would get a fee from the lawyers in return, would you not? A. If I was paying them; personal interest would compel me to do it then in order to keep the business up with the title companies.

By Mr. IVINS:

Q. You didn't make a provisional estimate to the board of estimate and apportionment for the expenses of your office for this year? A. No, sir; do you mean the year 1889?

Q. Eighteen hundred and ninety — the present year? A. Yes.

Q. You have made it for '91, have you not? A. For '91; yes, sir.

Q. But the estimate for the moneys which you are expending were not provided for in a provisional estimate made by you? A. No; they were not.

Q. But you have now to file your provisional estimate for your expenses for the year 1891? A. Yes, sir.

Q. Does your provisional estimate include these two clerks? A. Yes, sir; it does; I want to say with reference to those two clerks, that that is not altogether their duties; now, for instance, Mr. Pine assists behind the desk with the grantee clerk.

Q. What proportion of Mr. Pine's time is spent in doing that? A. And takes charge, as Drew does, of the deeds and mortgages.

Q. What proportion of their time is spent in doing that, and what proportion is spent in doing the work of lawyers' clerks? A. Well, I could not say.

By Senator FASSETT:

Q. Half? A. Well, I couldn't tell even that; I know they are not during business hours.

By Mr. IVINS:

Q. Suppose one of these men were to do the work done in the office and the other were to do all the delivering; couldn't it be done that way? A. I don't think one man would be sufficient to deliver all the deeds and mortgages we send out in a day.

Q. Then it takes one man and part of another man, at least? A. I presume it would.

Q. To do work which does not belong to the city in any proper sense, does it? A. It belongs to the city in this regard; that the city is responsible for those deeds and mortgages; for their safe keeping and for their proper return.

Q. Why is it not just as much the duty of the city to send around to the man's office for these things, in the first instance, as to send them back after they have been recorded; how do you distinguish? A. Why, because it is not the city's affair; if a man buys a piece of real estate and he does not record his paper, it does not give notice, and it is therefore the interest of the party who purchases the property to see that the deed is recorded.

Q. Is it not his interest to come and get his deed; is it the city's affair how long he goes with or without it if he does not see fit to come for it? A. Why, I think it is the city's affair to relieve itself of as much responsibility as possible; and if the party has paid for the recording of his paper, I think the city should deliver it; it has been the custom.

By Senator McNAUGHTON:

Q. How long has it been the custom? A. From time immemorial, I understand.

Q. And is not this the fact; that if those deeds and mortgages are not returned they are left in your office, and then subsequently, weeks or months or years afterwards, a party comes in entitled to the deed and inquires for it; won't that take a great deal of time, to find that old deed? A. There is no doubt about that, sir.

Q. Does it not really take less time to deliver them and have them out of the way than it would to have them piled up in your office, subject to their call when they come in? A. Certainly.

By Mr. IVINS:

Q. Do you think they would pile up in your office? A. If they were not delivered?

Q. Yes. A. Yes; I think they would.

Senator McNAUGHTON.—They do in all offices.

Q. As a matter of fact, is it worth \$1,500 a year to save the city storage room of those deeds, in your office or elsewhere? A. To save the city the storage room?

Q. Yes; that is what it has come down to.

Mr. IVINS.—The trouble with this is here; when this was a feed office and the register got the fees and put them in his own pocket, then it was very proper, if he wanted to, that his own money should pay a number of these men to send these papers around; but it is no longer a feed office. The city of New York, as a municipal corporation, is now paying these items of expense, and the office is running to the bad, financially; and the question is, what can be done to stop it. Now, here is one leak, apparently of \$2,700, or the major part of it, which accrues solely from the fact that a man is paid by the city to take these papers out of this office and return them to the lawyers, instead of seeing that the lawyers come and get their papers. If they do not want their papers, let them leave them; then the question arises whether it is worth \$2,700 a year to get rid of this storage of those papers.

Senator McNAUGHTON.—You have got to go further than that; whether it is worth \$2,700 to search the papers and be responsible, and then to search for them when they are called for.

Mr. IVINS.—They never have to search for them but once. They have to do that anyhow.

Senator McNAUGHTON.—I can see a very great difference between a paper recorded to-day and delivered to-day to a lawyer, and filing that



paper away among the records of the office, and having that paper looked for to-morrow, or three weeks from to-morrow, or three years or ten years from to-morrow. There is the difference.

Mr. IVINS.—Isn't that done every day in the county clerk's office, going back for years, on judgment-rolls or anything of that kind? You can put your hand on judgment-rolls that are twenty years old.

Senator McNAUGHTON.—That the clerk gets pay for. I do not want to argue this finical point; but I think that is a fair question, whether, in the judgment of this witness, anything would be saved to the city by abolishing the office of deliverers, as they are called, and leave those papers to accumulate, subject to be called for and taken out at any time from this out.

Mr. IVINS.—The point is here: We made a loss last year on this office of \$9,410—

The WITNESS.—But only in one department, Mr. Ivins.

Mr. IVINS.—You have made a net loss. You have made a much larger loss than that on one department. Your loss on one department has been in excess of the other.

The WITNESS.—If you will take each department of the office and figure out the percentages, you will find that it nets a very handsome sum to the city, with the exception of the searching department, and that is accounted for.

Q. We take that now after the loss has been made by the searching department; after the city has been credited with the profits on the other departments, nevertheless there is an ultimate net loss to the city of \$9,410, and the change of a very few items of that amount of expenditures would counterbalance that loss, and leave that office a self-sustaining office, instead of an office that is not self-sustaining; and here is one of the first items that sticks out clearly, as it seems to me, and I ask the witness, consequently, whether or not the city should not be saved the cost of sending around the papers to other people at the city's expense, if the other people don't take enough interest to come and get them for themselves?

Senator FASSETT.—If it is proper, why should they not be charged for that?

The WITNESS.—Because the statute don't provide for any such charge.

Q. Is there any reason why the statute should not provide for any such charge, if it is at all a proper public function? A. We get ten cents for recording, and those different rates that you know about set forth in the statute; now, in response to your question that you put, would it save the city, why, if the papers are going to accumulate you would have to have two clerks who wouldn't be called delivery

clerks, but clerks on accumulation of papers; that would be the difference; that is, you know you certainly would have to have somebody to take care of those deeds and mortgages if they piled up.

By Mr. IVINS:

Q. Do you consider the return of these papers as a proper public duty? A. I do.

Q. If it is a proper public duty, and costs the city \$2,700 a year, do you know of any reason why the city should not charge that back to the people to whom the duty is performed? A. If there was a provision of the law allowing that charge.

Senator FASSETT.— Why should there not be one?

Q. Is there any reason why there should not be a provision of the law, if that is a proper duty? A. I don't know of any reason.

Q. What do you think would be a proper charge, in your judgment, for returning papers? A. I do not know; I haven't given the matter any thought; I could not express any opinion about it.

Q. Do you know whether either of these clerks ever gets anything for returning those papers? A. Why, I know they do not, except what they get paid from the city.

By Senator FASSETT:

Q. That is, you know they do never receive little gratuitous fees from lawyers? A. Well, I never heard of it.

By Senator McNAUGHTON:

Q. No complaint made to you that they exacted anything of that kind? A. No.

Q. Do they do that during the hours of 9 and 4? A. Yes, sir.

Q. Do they ever start out after 4 o'clock with the deliveries? A. I don't know, Senator; I don't think so.

By Mr. IVINS:

Q. You are familiar with the law of 1883 in regard to recopying the old records? A. Chapter 57, I think, of the Laws of 1883; yes, sir.

Q. From your knowledge of the condition of those old records, have you any doubt of the wisdom of that law? A. Why, I have no doubt of the wisdom of that law; I think it is a very proper law indeed; you understand how that is done in the city of New York.

Q. Yes, I understand. A. The register makes a report to the First Department Supreme Court, and one of the justices, on that report, appoints a committee of three lawyers who make a report back to him, as to the matter contained in the register's requisition; upon the

report of those lawyers, one of the justices of this department makes an order condemning a certain number of books; for instance, the books we are copying at present, is under the order of condemnation of July 12, 1888; there are about twenty-five books still under that order to be copied.

Q. That is where records are illegible? A. Illegible; yes, sir.

By Senator FASSETT:

Q. Or mutilated? A. Or mutilated.

By Senator McNAUGHTON:

Q. Have you any suggestion to make in regard to that, cheapening the way of recopying those records? A. I couldn't make any suggestion on that point.

Q. It is very difficult work, is it not? A. As you understand, it is very difficult work for this reason: That the new book must correspond in every detail with the old book, as to page for page and line for line, and you might say word for word.

Q. And the punctuation? A. And the punctuation must be the same.

Q. Misspelling? A. Misspelling and everything like that.

Q. It must be an accurate copy of the old record? And, of course, some of them are very much mutilated, torn, and it takes a great deal of time to get these pages out.

Q. And ink has faded? A. Oh, certainly; binding gone.

Q. You have not any recommendation that you could make to the committee as to the way of cheapening that in any way? I could not make any recommendation, Senator, with reference to cheapening that, because, as I say, I haven't — I am at present proceeding under an order made in 1888 by Judge O'Brien, dated July twelfth.

Q. No order has been made since you took charge? A. No.

By Senator FASSETT:

Q. It would cheapen it some if men worked eight hours a day instead of six, would it not? A. Well, as I say, I am traveling under the Consolidation Act, and I assume that our hours of labor are from 9 to 4.

AFTER RECESS.

FRANK T. FITZGERALD, recalled, further testified:

By Mr. IVINS:

Q. Going back to the matter of the clerk who delivers those deeds, mortgages and other papers, that is to the clerk or clerks called the

delivery clerks, do you not know that when the office was a fee office instead of a salaried office, it was the custom for the delivery clerk to collect the fees due, and that he took the papers and got the money?

A. Whilst I have not an exact information about that, I understood that when the office was a fee office, that was the custom, and I also learned at recess that at the commencement of Mr. Slevin's term, that is on the 1st of January, 1887, the papers accumulated in such large quantities that the office found that there was no way to store them, and that there was a general outcry from the members of the bar with reference to the delay of the delivery of papers; the accounts were not run as formerly, on account of it being city money, and, of course, they had to pay as each deed was offered for record, and by reason of that situation these delivery clerks were created, as I understood at the behest of the bar.

Q. Who told you that? A. My deputy clerk, Mr. Hanley.

Q. Is Mr. Hanley in the room now? A. No.

MR. IVINS.—Before going further I want to put in evidence a copy of the report filed by John Reilly, as register, dated December 31, 1886. This is addressed to Frederick Cook, Secretary of State. This will give us officially the status of that office during the time when it was still a free office. It appears on this, for instance, that in the month of January, 1886, the receipts were \$15,304, and the expenses were \$8,300, showing a profit for the month of \$7,000. In February of that year the receipts were \$13,710, and the expenses for the month \$7,750, showing a profit of \$5,959. In March of that year the receipts were \$18,000, the disbursements 10,000; the profit balance for the month being \$8,764. They are losing as much per year now as they were then making per month.

THE WITNESS.—There were not any title companies in those days. [Paper marked Exhibit 8 of this date.]

MR. IVINS.—I think that a comparison for this year, the other figures that we have, will show that there was something more than title companies which produced the loss. It appears that the gross balance of profits receivable for the year was \$91,190.

THE WITNESS.—That was the profit.

MR. IVINS.—That was the register's income under the old system, under and above the expenses of conducting his office. Of that \$91,190 which had been earned at that time, there was outstanding, subject to collection, \$11,140, there having been actually collected of the amount \$80,049.

SENATOR FASSETT.—Does that report give any differentiation of the incomes?



Mr. IVINS.—I am going right through the report. That is a summary of the report. This report shows that a volume of business which gave a net profit for this year to the register of \$91,000. It becomes necessary to see consequently exactly how much it cost the register to earn that amount, that is to do the volume of business out of which he earned \$91,000, and the volume of business was very much larger than it is now, as due to the fact that at that time there were none of these title companies. A comparative study of his pay-rolls as returned, with the pay-rolls as they stand to-day show, that although the volume of work was then much larger than it now is, the pay-roll was very much smaller, and that I would like to take up in detail.

Q. John Reilly's deputy register was your deputy register, wasn't he? A. I understood that Mr. McLaughlin was John Reilly's deputy for some time, and then Mr. Hanley succeeded him.

Q. Mr. Hanley was his deputy register part of the time, wasn't he? A. I understood so; yes.

Q. He is returned by Mr. Reilly as having been his deputy register for this entire year? A. That would be probably correct; I don't know anything about that, really.

Q. You now pay the deputy register \$25,000 per annum? A. That is the amount allowed by the board of estimate and apportionment; yes, sir.

Q. It is the amount asked for, isn't it — haven't you asked for that amount for next year? A. Yes, sir.

Q. And it is allowed because it is asked for, isn't it? A. I assume that that is so.

By Senator FASSETT:

Q. Does he get it — do you pay him that? A. Certainly; the city pays him.

Q. You laid emphasis on the words that is the amount asked for; is that the amount he receives? A. This schedule that Mr. Ivins is now reading from, I know nothing about whatever.

By Mr. IVINS:

Q. I have not read from any yet. A. I assumed that you were; your eyes were on the paper, and I assumed that you were reading from it.

Q. I am talking about what you pay your deputy? A. The board of estimate and apportionment have fixed the salary of the deputy at \$5,000; that was requested by my predecessor.

By Senator FASSETT:

Q. He gets it, doesn't he? A. Yes.

Q. There is no division in that salary with anyone? A. No; there is not.

Q. I asked that, from the way you asked the question; you seemed to hesitate about answering whether he got it? A. Not at all; what I wanted to say was this, that Mr. Slevin, in his estimate for the year 1890, asked it, and those are the lines I am traveling on now; Mr. Slevin was my predecessor and he put in his provision estimate before I was elected, and his provisional estimate was adopted as the final estimate by the board of estimate and apportionment, and the salary was fixed at \$5,000.

Q. And you put in the same estimate for next year? A. Yes.

By Mr. IVINS:

Q. Mr. Hanley's work is no more difficult now than it was then during Mr. Reilly's time, is it? A. Not any more than, of course, the number of papers is larger; the amount of work done in the department for recording deeds and mortgages; of course, accumulates and is larger.

Q. Does he do any part of the recording of the deeds and mortgages? A. No; but he receives them and he passes upon the acknowledgments.

Q. Does not he have assistants to assist him in passing upon those acknowledgments? A. Yes; it is all done subject to a system, isn't it, all done methodically? A. If the acknowledgment is not correct, of course, the paper would not be received.

Q. Does he personally pass on every acknowledgment? A. Well, not personally, not every one.

Q. Not personally? A. Not on everyone; no.

Q. Then, this passing of acknowledgments is done as part of the system of the office by him and his assistants? A. Yes, sir.

Q. In what regard does his duty and his work now differ from what it was in 1886? A. In this respect, that there is more business done in the office at present than there was at 1886, excepting the searching department.

Q. Is the system changed to such an extent that the supervision of it is now more difficult than it was then? A. No; the system is not changed any; but there is more work.

Q. Does he do the additional work—I am talking about him alone? A. Of course; yes.

Q. He does do the additional work? A. He helps to do it.

Q. And although this work has been so greatly increased he can still do it between the hours of 9 and 4? A. Between the hours of 9 and 4, because after 4 o'clock, or before 9 o'clock, there wouldn't be any work to do, the lawyers wouldn't offer the papers.

Q. Do you think the work has doubled in the last four years? A. I think it has increased about thirty-three and one-half per cent.

By Senator FASSETT:

Q. After deducting the searching? A. No; this is outside of the searching; you understand that I draw a distinction between the searching and the rest.

Q. I know that; the volume of work done because of the searching has decreased? A. Yes.

Q. The volume of work done because of the increase of business in recording has increased? A. Yes, sir; the other departments.

Q. As your deputy register he is responsible for both classes of work, isn't he; as your deputy register he acts for you in both behalfs? A. He does his share of the work; yes, sir.

Q. There has been an increase of departmental work on one side and a decrease of departmental work on the other side? A. Yes.

Q. Has there been any increase in his work; in the long run has his work been increased or made more responsible? A. I don't know as I could answer that for this reason, that I have not any idea what work was done in the year 1886.

Mr. IVINS.—Then we have simply got to pass that, and I call the committee's attention to the fact that the sworn report of Mr. Reilly is that at that time the deputy register received \$3,000 per annum; now he is receiving \$5,000.

By Senator FASSETT:

Q. How was it in 1887? A. He received \$5,000 then; these salaries have been in vogue since the 1st of January, 1887.

Q. You have no reason to suppose that the duties or the amount of work differed very much in 1887 from what they were in 1886, have you? A. I couldn't say about that; I have not any knowledge about it.

Q. You have no reason to suppose it — there is nothing to cause any special variations between those two years in the amount of work done? A. Not unless it was a very active year in real estate; if it was, of course, the conveyances and the mortgages would be larger in number.

By Mr. IVINS:

Q. Does Mr. Hanley have more to attend to than he can do?

A. He does his business properly.

Q. He does it properly? A. Yes, sir.

Q. Do you know of your own knowledge, or even from hearsay, whether he has more business to do than he had four years ago, in the long run? A. I do not of my own knowledge, because I do not know anything about what was done four years ago.

Mr. IVINS.—I call the attention of the committee to the first item, to the difference of \$2,000 per annum in the salary of the deputy register. When the deputy register was paid by the register and the business was run on the basis of a fee office, it was possible to get the services of the identical man for \$3,000, from which now, as a city office, he is being paid \$5,000.

Q. Now, we come to the next place; the assistant deputy register gets \$3,000 under you, does he not? A. That is the salary allowed by the board of estimate and apportionment.

Q. And that is enjoyed by your brother? A. Yes, sir.

Q. Do you know whether the assistant deputy register personally, has more serious, difficult or responsible work to do now than the assistant deputy register had to do four years ago? A. I think the same answer will apply to that position as would apply to the deputy.

Q. Well, Mr. Reilly reports that Lewis H. Watts was assistant deputy register and that he receives \$1,800 per year, being a difference of \$1,200 on that item, as between the old system and the new; your tickler clerk is whom? A. Mr. Grady.

Q. Is he the father of the Honorable Thomas F. Grady—ex-Senator Grady? A. Yes, sir.

Q. He is a very competent man, is he not? A. Yes, sir.

Q. He does as much work now as he did four years ago, you would assume, wouldn't you? A. I would assume that he did more work than he did four years ago.

Q. Assuming that he did more work, can you account for it that he gets \$200 less than he got four years ago? A. What is his salary now?

Q. His salary now is \$1,600, and then it was \$1,800? A. The last register requested \$1,800 for him and it was denied by the board of estimate and apportionment; I think I have asked for \$1,800 for him this year, if I remember rightly; I think he ought to have \$1,800.

Q. Can you tell why, particularly, in view of the fact that the fees are not collected by the delivery clerks, you now need two delivery



clerks at an aggregate of \$2,700 to do the work which Mr. Reilly was enabled to have done by one delivery clerk at \$1,800? A. My answer to that would be just as it was in the other instance, that the city is growing, and naturally there would be more deeds of conveyances and more mortgages put on record, and more to deliver than there was four years ago; and I say, the creation of those two offices was really done at the behest of the bar; I am so informed; I don't know of my own knowledge.

By Senator FASSETT:

Q. Is conveyancing in this city done largely by a few firms?

A. There are some firms, for instance, Strong & Cadwalader, Alexander & Green, and the different attorneys for the monetary institutions of the city, that I think do the bulk of the business.

Q. Then it wouldn't take any longer to deliver 100 documents to them than it would to deliver ten; would it? A. You could deliver 100 documents to them more easily than you could deliver ten documents to ten different firms?

Q. I mean on one and the same delivery? A. May I trouble you to repeat that question.

Q. On one and the same delivery, it wouldn't take a man any longer to leave 100 documents than it would to leave ten; would it? A. It depends; If Strong & Cadwalader had 100 documents in our office to be returned, of course, it would be simply one journey to their office, that would be all; the conveyancing, of course, is not done by them; it is the mortgaging.

By Mr. IVINS:

Q. Are the duties of examiner at present the same as the duties of examiner four years ago? A. I should think so; yes.

Q. How much, in your judgment, has the business of recording increased; are there twice as many folios of records to-day as there were four years ago; has the business doubled in four years? A. The theory of those who have given this question a good deal of thought is that the recording, I should say that the real estate transactions, increase at the rate of about 12,000 papers per year; I took the liberty of asking Mr. Olmstead about that, and he told me that they increase about 12,000 a year; whether that is a fact or not I couldn't say.

Q. Are you, as register, prepared to say generally what the volume of the business is, so far as concerns recorded papers, as to the correctness of the record of which examiners are employed has increased in the last two, three or four years? A. Will you kindly repeat that,

Q. I will ask it in another form then; first, these examiners, as I understand, have to examine certain books, to see whether or not the papers have been correctly entered? A. Yes, sir; that is done before we receive the papers for certification.

Q. Is the volume of papers so entered materially larger than it was four years ago? A. I don't know anything about four years ago.

By Senator FASSETT:

Q. You have the books in your office? A. I have, but not at hand; in fact I don't know.

Mr. IVINS.—Mr. Tate, will you make a memorandum to show the number of libers filled in the year 1886, and the number filled during this year?

The WITNESS.—I can tell you what the number of libers is now; the average number of libers for this year is about 105 of conveyances and about 125 of mortgages; that is, there may be one or two either way; but that is about the average; 105 of conveyances and 125 of mortgages.

Q. The reader is complemented to the examiner in his work; they complement each other? A. Yes.

Q. How do you explain it, that during Mr. Reilly's time, one examiner at \$1,500 was able to do the work which is now being done by three examiners at \$4,000 a year?

Senator FASSETT.—Apiece?

Mr. IVINS.—No; \$4,000 for the three now, for work which is done by one reader in Mr. Reilly's time at \$1,066; it now requires three readers at \$3,600? A. For the reason that the business has increased since 1884.

Q. Has it increased to such an extent that it requires three men where only one was required in each of these instances; has it trebled? A. I think so, for this reason; in order to return the papers in proper time to the attorneys; I was very fully over that before the board of estimate and apportionment last December; Mr. Arnold, who is a lawyer, as you know, one of the board of estimate and apportionment, went over it very carefully with me, and he thought that that expense was necessary in order to get the papers out in time to the attorneys, who were interested in their return.

Q. Does your bookkeeper have as much to do as he used to have to do, or as the bookkeeper had to do four years ago? A. Keeping in view, of course, that difference of searching, I don't know as he has; I think probably that one hand would wash the other in that case—may be.

Mr. IVINS.— I called the attention of the committee to the fact that Mr. Reilly's bookkeeper received \$1,500, while the present bookkeeper receives only \$1,200 a year.

Q. Now, I see entered here "Charles E. Baldwin as search clerk;" what is a search clerk? A. A search clerk is the gentleman who takes charge of the searches and enters up the searches as they come to the office.

Q. You have fewer searches to so enter up than there were four years ago? A. Yes, sir.

Q. Very much fewer? A. I should think so; yes, sir.

Q. As shown by the return? A. Yes, sir.

By Senator FASSETT:

Q. Four times? A. Yes, sir.

By Mr. IVINS:

Q. In other words, you don't have twenty-five per cent of the searches to enter up that you had four years ago? A. I should think not.

Mr. IVINS.— I call your attention to the fact, and the attention of the committee to the fact, that there was no such clerk known in Mr. Reilly's term, and there was no one to correspond to clerk at all; so that that seems to be a complete addition to the pay-roll.

Q. Now, what kind of entries does this search clerk make? A. He enters the searches as they come into the office.

Q. Do you know what the volume of his work is? A. Do you mean stated in money?

Q. No; the volume of his work in point of entries? A. If you will allow me to refer to some papers I have here I can tell.

Q. Certainly; refer to anything you want to. A. The number of requisitions of search received up to date was 1,286; that probably represents about nine months.

Q. Nine months of the year? A. About nine months; may be till last Saturday.

Q. One thousand two hundred and eighty-six requisitions? A. Yes, sir; as against 2,500 during the same period in 1889.

By Senator FASSETT:

Q. It has fallen off substantially how much? A. About half; fifty per cent.

By Mr. IVINS:

Q. Then this clerk does not have to do more than half as much as he had last year? A. The search clerk also assists in keeping track of the accounts.

By Senator FASSETT:

Q. He did that last year? A. We have to keep a duplicate book, you understand; there are duplicate accounts; one is filed with the comptroller and one I retain; so that every entry of a transaction in the office is really double entried.

Q. That was done last year, was it, or is it a new feature? A. I don't know; I don't think it is a new feature.

By Mr. IVINS:

Q. You speak of this as double entry?

Senator FASSETT.—He means a duplicate entry.

The WITNESS.—I mean a duplicate entry; that is what I mean.

Q. You don't mean to say that you render an itemized account to the comptroller, do you? A. Yes, sir; of everything.

Q. Giving the name of the person who paid the money for entering which it is paid? A. Yes, sir; and that appears in detail; at the end of each day you will find in the transcript at the comptroller's office the transactions of every day; day by day.

Q. Will you let one of your clerks go over and get that book now, so that we can see what the entries of any one day are for this present year? A. Yes, sir; I will send for it.

Q. How many requisitions did you say there were? A. One thousand two hundred and eighty-six requisitions this year as compared with 2,500 for the same period last year—about fifty per cent falling off.

By Senator FASSETT:

Q. Is that true for most of the months? A. This represents the work for this year; that is, the 1,286 requisitions represent the work done from the 1st of January, 1890, to the present date; now, for the same period of 1889 there were 2,500.

Q. And for the same period of 1888 there were twice as much as there was for 1889? A. I couldn't say that.

By Mr. IVINS:

Q. That would make an average of about 130 requisitions a month? A. I don't know.

Q. He enters these requisitions and assists in making up the duplicate account; does he do anything else? A. I think not.



Q. Then the volume of his work would be what he does on the duplicate accounts and making the entries of these requisitions? A. He is pretty thoroughly engaged in keeping up the duplicate accounts, as you will see when that book arrives.

Q. This search business, then, and the entry of these requisitions is a very small part of his work, is it? A. Yes; it is a small part of his work.

Q. It is not the major part of his work? A. No; the major part of his work is to keep up the day's transactions; we could not get along unless he assisted our regular account clerk and bookkeeper.

Q. What did these temporary clerks do, these so-called temporary clerks? A. Let me see the list, please.

Q. Mr. Sinnott is one of them; he is a temporary clerk; he is down here as getting \$400 per annum? A. Mr. Sinnott is also engaged on preparing the extra fees and keeping account of the extra fees, and also in rendering assistance to the tickler clerk.

Q. What extra fees do you mean? A. I mean the extra fees for extra searches.

Q. Then, if that is the case, will you explain why out of \$1,600 received for extra searches for 1890, the bookkeeper got \$570 out of the entire gross sum? A. The same rule applies to those as applies to the county clerk's office which Mr. Gilroy spoke of the last time he was on the stand; as a matter of fact that act of 1887, has been a pure accommodation to the bar, as I explained this morning, and the same rule applies there as did in the case of Mr. Gilroy, who was on the stand as to the county clerk's office.

Q. The trouble is that the same rule does not apply? A. Why not; if you read the statute of 1887?

Q. I will tell you why; your entire gross receipts for extra searches were \$1,600? A. Yes, sir.

Q. And the statute provides that you should pay the cost of those extra searches? A. Yes.

Q. Now, what did the bookkeeper have to do with making those extra searches and why should the bookkeeper out of the gross sum of \$1,600 get \$570? A. I will explain it in a moment if you will let me have the statute of 1887.

[Laws of 1887 handed to witness.]

THE WITNESS.—You understand that this act of 1887 was passed at the request of the members of the bar in order to get over that tangle in which this office got at the time.

Q. Will you swear to that? A. So I am informed.

Q. Do you swear to that as a fact to your knowledge; that is the point I want to get at? A. It comes to me in this way—I want to go into the history of this legislation.

Q. You are not prepared to swear that that was passed at the request of the bar for the purpose of getting out of the tangle, are you? A. Out of what tangle?

Q. That the business had then got in? A. This legislation was adopted on the request of the bar.

Q. How do you know that? A. Because I have inquired about it.

Q. Did you make any inquiry as to who it was stimulated or brought about that action on the part of the bar? A. Well, I don't know.

Q. Do you know it was the register himself? A. No; I do not.

Q. You never heard that before? A. I did not; I was not registered at the time and it was not I who did it; but under this act I claim that that work is done after office hours in order not to affect the regular business of the office; in other words, if the volume of business of the office was so that they could not perform the work during the office hours, then this work is done after hours, and that is what has been done under me; and I insisted that this work had got to be done after hours, in order not to interfere with the regular searches of the office; this is a pure accommodation to the bar in order to have their searches returned within three days.

By Senator FASSETT:

Q. As a matter of fact, is it all done out of hours? A. Yes, sir.

By Mr. IVINS:

Q. What part of it does the bookkeeper do? A. The bookkeeper makes a transcript of the fees and keeps track of the extra searches.

Q. Does he do any part of the work of extra searching? A. No.

Q. He simply makes the entries? A. Keeping the accounts.

Q. Will you explain why it is that for keeping the accounts, which aggregate \$1,600, the total entries of accounts, \$570 of that sum should be paid for making those entries? A. I will explain that; in the first place we receive nine —

Senator FASSETT.—It is a large percentage that goes for mere bookkeeping.

Mr. IVINS.—It costs \$570 to keep the books showing entries of \$1,600?

The WITNESS.—We received for extra searching \$1,619.60, of which \$800 was paid to the searchers.

By Senator FASSETT:

Q. For the actual work of searching? A. Yes, sir; under this act; there was twenty per cent of \$800 turned into the city treasury, twenty per cent of the remaining \$800.

Q. Twenty per cent of \$800? A. Of \$800; there was whatever the pay-rolls show paid to the bookkeeper for separating this extra searching from the regular searching, which was done after office hours.

By Mr. IVINS:

Q. Does it take the bookkeeper as much time to separate the items of entry of extra searching from the regular searching as it takes the searchers to make the searches themselves? A. That, I couldn't say.

Q. How do you account for it that the bookkeeper gets \$570 for keeping the entries touching certain business, for the performance of which business the searchers only get \$800? A. I don't think the bookkeeper gets that amount.

Mr. IVINS.—That is what the records show.

Witness withdrawn for the present.

HENRY M. TATE, recalled, further testifies:

By Mr. IVINS:

Q. You find that the amount that the books show the bookkeeper got for that item is how much—is it \$570? A. In round numbers; yes.

FRANK T. FITZGERALD, recalled, further testifies:

By Mr. IVINS:

Q. The records show that the bookkeeper got \$570? A. That is explained in this way; the compensation for extra searches is fixed by the statute, that they should get half; and under the discretion which is conferred upon me by that act, I can employ whatever employees I require and make whatever payments I please.

Senator FASSETT.—That is right that you pay your searchers half; but the statute does not say how much you should pay the bookkeeper.

The WITNESS.—Not at all; that is within my discretion.

Q. In your exercise of the duties of that office, do you consider that it is proper for you, as the holder of an office of trust, to pay \$570 to a bookkeeper already under the pay of the city for the simple work of making entries showing \$1,600? A. As a matter of fact, this statute was passed for the accommodation of the bar.

Q. I don't care anything about the accommodation of the bar; what I want to find out is, how you justify yourself for employing that man at that rate? A. I think that I ought to have just a little opportunity to make response to your question.

Q. You may; but it is not necessary to lug in the bar every time.

By Senator FASSETT:

Q. No matter for whose benefit this was passed, what is the explanation that to enter up items amounting to \$1,600 you paid almost as

much as the cost of getting the work done; that is, you paid \$570 for entering up \$1,600 worth of work? A. For the reason that those men are employed to do it, and that is the rate that I fixed for their pay.

Q. You are mixing it up; the searchers you paid \$800? A. Yes.

Q. Now, then, the bookkeeper is already employed to do other work, is he not? A. Yes.

Q. And he receives pay from the city for the other work he does? A. This is not the bookkeeper.

Q. But he does receive other pay, doesn't he, the bookkeeper? A. Yes, sir; for his work between regular hours.

Q. He worked out of hours to make these entries? A. Yes.

Q. And for the work he does out of hours, you have a right to fix his pay? A. Yes.

Q. And that it seems is something over \$570? A. Yes, sir.

Mr. IVINS.—The exact figures are \$569.28.

Q. How does it happen that you fix so much money to do so little work? A. It is not little work.

Q. It only aggregates \$1,600? A. It is important work.

Q. Yes; any one act I suppose is important, but it does not take long to do it? A. In my judgment I claim that under this statute, I have the discretion to fix the salary that I shall assign to those that do that work.

By Mr. IVINS:

Q. Now will you tell us under what provision of the statute you have a right to fix a salary for doing it—see if it does not say that you shall pay the cost of doing the extra work? A. The regular searches we have fifteen days in which to return; when there is an expedited search, we get the regular fee and fifty per cent additional to return it within three days; when I took office, I saw Mr. Gilroy with reference to the construction of this statute, and he told me he had an opinion of the corporation counsel, and that I would be perfectly justified in going on and fixing the compensation of a bookkeeper under that opinion of the corporation counsel.

By Senator FASSETT:

Q. You felt that you had the discretion to expend the amount of money over and above what the searchers got, which the statute fixed at half? A. No; do you mean to spend it all?

Q. No; to spend as much of it as was necessary? A. Mr. Gilroy said that they turned in, I think, twelve per cent.

Q. There was nothing in the statute to limit them to twelve per cent, was there? A. Not at all; they need not to have turned in anything.



Q. You understood that you had that power? A. If it was necessary to employ.

Q. And you were the judge of the necessity? A. Yes, sir.

Q. There is no misunderstanding about that? A. No.

Q. And in the exercise of what you understood to be your discretion, you have set apart this sum for the bookkeeper? A. Yes, sir; that opinion of the corporation counsel applied to the register's department, I understood.

By Mr. IVINS:

Q. The provision is that he shall account for all fees, etc., excepting the actual expenses, including additional compensation to employes, as hereinafter provided, incurred by the said register to give the payments required in carrying out the provisions of this section; now, was the payment of \$570 required to carry out the provisions of that section? A. Don't put it that way; you want to put it by the month; yes; lump it, and it was.

Q. Was it required in order to do that \$1,600 worth of extra searching that you should pay out of the \$1,600, \$570 to a bookkeeper to make those entries? A. In my judgment it was.

Q. How did it come to be required? A. Because the work had to be done outside of office hours, and I insisted that it should, in order not to affect the regular searches; that is the object of the act.

Q. Now, since the work had to be done out of office hours, it was for you to enter into a contract for its performance, was it? A. Yes.

Q. Did you consider that you were acting as a trustee for the city in doing that? A. That was my duty, as I assumed it under the opinion of the corporation counsel that I have just referred to.

Q. And acting as trustee for the city, do you think that you were doing your duty when you agreed to pay \$570 out of \$1,600 for the entry in the books of the receipt of \$1,600? A. I should think that it was necessary for that work to be done without telling any figures at all.

By Senator AHEARN:

Q. It was important work? A. Yes, sir.

Q. And in your judgment you wanted a qualified person to do it? A. That was it; and as I remarked before, I proceeded under the opinion of the corporation counsel.

By Mr. IVINS:

Q. What book were those entries made in? A. There is a book in the office.

Q. What is it called? A. The extra search book.

Q. Will you send for the extra search book? A. Yes, sir.

By Senator FASSETT:

Q. Do you know of any other business in which it takes thirty-three and one-third per cent of the income of the business to pay for bookkeeping? A. That I don't know anything about; I don't know as it is a relevant question anyway.

Q. I should think it was very relevant whether you paid four or five times too much for your work or not? [Question not answered.]

By Mr. IVINS:

Q. If you will send for that extra search book, then I will come back to this point; you answered that Mr. William H. Sinnott was a temporary clerk at \$400 a year, and that he assisted the bookkeeper in this matter of entering those extra fees? A. Yes, sir; part of the time.

Q. What does he do besides that? A. He helps Mr. Grady at the tickler book; as I remarked, on account of these transactions increasing every day, you have got to keep your book written up.

Q. How much of Mr. Sinnott's time is devoted to assisting the bookkeeper in making these entries of the expedited fees? A. He does not assist in making them.

Q. Whom does he assist in making them? A. Do you mean the expedited fees?

Q. Yes. A. He keeps that book himself; he does not assist anybody in doing that.

Q. Who does? A. I am saying that Mr. Sinnott assists Mr. Grady; a sort of assistant tickler clerk.

Q. I understood you to say that Mr. Sinnott assisted the bookkeeper? A. No; I do not mean to say so.

By Senator FASSETT:

Q. I understood you to say so. A. No; I didn't mean that.

By Mr. IVINS:

Q. You correct yourself then? A. Yes; I mean to say that Mr. Sinnott assists Mr. Grady who is the tickler clerk.

Mr. IVINS.—As far as Mr. Sinnott is concerned that place seems to have nothing to correspond with it, and no such duty was required to be performed, and no light expenditure was made for any such duty by Mr. Reilly under the old system.

By Senator FASSETT:

Q. Before you leave that search clerk, Mr. Fitzgerald testifies that his work last year was fifty per cent less than it was the year before.

A. For searching in the matter of requisitions.

By Mr. IVINS:

Q. As a matter of record the search clerk was unknown in the year of 1886 when the volume of work was largest? A. Of course, you will understand that I am proceeding under the line of my predecessor.

Senator FASSETT.—That is right; we understand that.

Mr. IVINS.—And we understand that in the present year you are working on an estimate made by your predecessor and not by yourself.

The WITNESS.—Yes, sir.

Q. As a matter of fact there was no such clerk known in 1886, when the business of searching was largest; the work done by the search clerk this year is fifty per cent less than the work done by the search clerk last year.

Senator FASSETT.—That is right.

Mr. IVINS.—So that there is not only an office here which did not exist four years ago, but the alleged duties of which office are not even one-half of what they were last year.

Q. Now, I would like to have pointed out from this exactly what the search clerk does in the course of the year in making these entries; this book comes down to September 30, 1890 [handing witness book]? A. To last month; yes, sir; there is a counterpart of that with the comptroller.

Q. This is a transcript of return of fees? A. There is a counterpart of that book with the comptroller.

Q. Do you keep a book for each month? A. Yes, sir.

Q. It appears that there are eighty-two filled or partially filled pages for the month of September; that includes the entire month's work, does it? A. Excuse me; we have a recapitulation put in the book here so that I could return the fees as soon as possible to the chamberlain.

Q. And two pages of recapitulation in the back? A. That was done because I wanted to return the fees as soon as possible.

Q. These fees are entered in this way, in one column from whom received? A. Yes, sir.

Q. Next, if it was the satisfaction of a mortgage, it was entered after that? A. Yes, sir.

Q. If it is papers it is entered under that? A. Yes, sir.

Q. If a chattel mortgage it is entered under that? A. Yes, sir.

Q. If for searches it is entered under that? A. Yes, sir.

Q. The book being printed so as to bring about a differentiation of accounts with the footing of each column? A. Yes, sir; there is a counterpart of that book with the comptroller.

Q. And then there is the total amount received? A. Yes, sir.

Q. And against the entire entry is this ["Deed, Kurzman, \$0.97, expended \$0.97"]; that is the entry, and that is the longest entry that is possible, is it not, and the most difficult entry that is possible in this search-book, or in this transcript, and return of fees-book? A. Well, that depends.

Q. Is it possible that there should be any other, in view of the way in which the book is printed and got up for entries? A. No; it is not possible.

By Senator FASSETT:

Q. And naming the amount, and the extension of the amount? A. And the extension of the amount, the work, for whom done, the nature of the service and the amount received.

By Mr. IVINS:

Q. You pay this search clerk \$1,200 per year for doing that work, do you? A. I want to say that I think he is improperly named as search clerk; he had better be called account clerk.

Q. Then we will call him account clerk; this account clerk then is paid \$1,200 for doing that work, is he? A. That would be two account clerks; no, he is not, because he has got to keep pace with his entries; we have got two there.

Q. Are the two men paid for doing this work? A. Certainly; because one man has a book to himself; there are two books; one is in the comptroller's office, and the other I keep myself.

Q. One man is paid \$1,200 for keeping one book like that? A. And the other is paid \$1,200 for doing the other book like that.

Mr. IVINS.—Just pass that book to the committee, and let the committeemen run their eyes through it as to the general excellence of the clerical work.

By Senator FASSETT:

Q. That work averages about three and one-half pages a day for the working days of the month? A. I have not looked at that; I suppose that is it; the work of each day is separate.

By Mr. IVINS:

Q. And from three to four pages a day, is a day's work of such entries as those? A. That would altogether depend on the business done.



By Senator FASSETT:

Q. Is September a busy month? A. No; September is a very light month; it is hardly a test; it is probably the dullest month in the year; that has been my experience from the first of January.

By Senator AHEARN:

Q. Are the clerks used for another purpose besides that? A. Yes; I was just talking of it.

By Mr. IVINS:

Q. Are you prepared to say that those expedited searches that you insisted ought to be done outside of the time, were really not done inside of the time? A. They were done outside of the time.

Q. Are you sure of that, that they were done outside of business hours? A. Those are my orders.

Q. Have you ever taken pains to see whether your orders are observed in that regard? A. I have taken the pains in the conduct of my office to see that it was run properly, and I assume that.

By Senator FASSETT:

Q. The question is, are you so positive that you are willing to swear that the work has actually been done outside of business hours? A. My information and belief are that it has.

By Mr. IVINS:

Q. What book is that that you have there? A. This is the search-book, to keep the accounts with the searchers.

Q. This is the book for making entries in which the bookkeeper gets \$570? A. Well, if you put it that way; yes, sir.

Q. Does this refer to all searches? A. No; it does not.

Q. It refers only to the extra searches? A. If we didn't have the extra searches there would be no need for that work.

Mr. IVINS [to Mr. Tate].—Mr. Tate, will you go over that and see how many entries there are there and how much it has cost per line to do that work [Handing book to Mr. Tate].

Q. How much do you think the business of indexing has increased as compared with four years ago? A. Do you mean the keeping up the index?

Q. The work done by the index clerk in making the index? A. Within four years?

Q. Yes. A. I should think that has increased, or it should have increased forty per cent, because we index against the mortgages and deeds or conveyances.

Q. That is a good fair estimate, isn't it, forty per cent? A. That is

my opinion; it may be more and it might be a little less; I think forty per cent is fair.

By Senator FASSETT:

Q. It is a fair round guess? A. I think so; yes.

By Mr. IVINS:

Q. There is no reason why an index clerk can't do as much work within six hours now as he could within six hours four years ago?

A. I don't see any.

By Senator FASSETT:

Q. The indexes are not more complicated in any way? A. No, sir; only the volume of business is greater.

By Mr. IVINS:

Q. How do you account for it that Mr. Reilly was able to do the work of that index office with four clerks, to whom he only paid \$3,800 in total, whereas the office now has to have eight index clerks who receive \$9,800; how do you account for that? A. I can't say anything about Mr. Reilly because I don't know anything about him; but when I took charge of the office the indexes were way back, so much so that the lawyers were finding fault, and Mr. Arnold, who is a member of the board of estimate and apportionment, and who is at present president of the board of aldermen, and an attorney and a man who does a great deal of real estate business, had a consultation before the board of estimate and apportionment with me in reference to that index work, so that in order to get it up we put on additional men; it was way behind then, I think a year and a half.

By Senator FASSETT:

Q. How many additional men did you put on? A. Can you tell me how many were on last year?

Mr. IVINS.—Last year, no; I know that you have had eight index clerks this year.

The WITNESS.—Yes; that is right.

By Mr. IVINS:

Q. How many index clerks have you asked for next year, and for this reason that under the block index system, we have got to keep up an alphabetical index as well as the block index, and we have got to wind up all the work that will be presently in the office, that is to the end of this year; as soon as we continue on and write up these present indexes, that closes that, and then we start off on a new matter that is to keep up an alphabetical index, together with the block index.

Q. Have you got a copy of your provisional estimate in your office?

A. I can get it.

Q. Is it in your office? A. Yes, sir.

Q. If you sent for it now could you get it? A. Yes, sir.

Q. Please do so, and we can fill that space by looking back and seeing how many index clerks there were employed during the year 1889, if Mr. Fitzgerald would like to have it on record? A. I want to say that the reason for the increase was this, that the indexes were way behind when I took charge of the office.

By Senator FASSETT:

Q. I think we have got that, haven't we? A. From a memorandum here it shows that the grantees and mortgagees' indexes were seven months behind; at present they are three months behind; the mortgagers were three months behind; at present they are three and a half months behind; that is a half month lost; the blotters at present are within six weeks of date, and at the time that I took office they were only within two months from date, so we have gained two weeks on the blotters; of course you understand that these indexes have got to be up as near as possible for the use of the members of the bar and others who have business with us in making searches.

Senator FASSETT.—I understand that.

By Mr. IVINS:

Q. What does your grantee clerk do? A. The grantee clerk enters up against the grantees and mortgagees.

Q. Enters where? A. In his grantee book.

Q. From which it is transcribed to what?

[Question not answered.]

By Senator FASSETT:

Q. Those are the libers of grantees and mortgagees and the others of grantors and mortgagors? A. We call the grantors and mortgagors the tickler, and the grantees and mortgagees we call the grantee book; I could send for a copy of it; that would set forth the grantees and mortgagees.

By Mr. IVINS:

Q. And that is to facilitate your searchers, keeping that up to date?

A. Yes.

Q. That grantee clerk, I find, gets paid \$1,000 now, whereas Mr. Reilly paid his grantee clerk \$1,200? A. Yes, sir.

Q. Has there been any marked increase, so far as you know, in the filing of chattel mortgages? A. Very much so.

Q. What does the chattel mortgage clerk do? A. The chattel mortgage clerks receive from the front desk—all papers come through the front desk—he receives from the front desk all the mortgages on personal property; he also receives what we call conditional bills of sale.

Q. What does he do when he receives them? A. When he receives them he numbers them and enters them in a book or a blotter, or a register, to be exact; he enters them in a register showing the mortgagor and mortgagee.

Q. And the amounts and dates? A. Not the amount of the mortgage, but the number.

Q. The number of the mortgage and the date? A. Yes, sir; and the date of entry.

Q. He has no more than he can do, has he? A. He has a great deal more than he can do.

Q. Does he work after hours? A. Yes, sir; he works as late as 10 o'clock some nights.

Q. How frequently do you suppose that sort of thing happens? A. I never knew him to get away, averaging in and out, before 8 o'clock.

Q. This is Mr. Commiskey? A. Yes, sir.

Q. I find that the chattel mortgage clerk under the fee system was paid but \$1,100, whereas Mr. Commiskey gets \$1,800. A. Yes, sir.

Q. What is a custodian? A. You mean the legal definition of custodian, or as applying it to our office?

Q. As applying it to your office? A. Do you mean a register's custodian?

Q. Yes; a register's custodian? A. A register's custodian under the act is one who should be present whenever a book is examined; a custodian should be at the end of the man's arm who is examining a book.

Q. As a matter of fact, is a custodian always present at a man's elbow when he is examining the books? A. Not in our office; each custodian has an aisle of books to look after.

By Senator FASSETT:

Q. Is that to prevent people from running away with their books or mutilating them? A. Well, I don't know what.

By Mr. IVINS:

Q. Are the custodians in the office from 9 till 4? A. Yes.

Q. Do you keep a time-book of the custodians? A. We don't keep



an especial time-book as to them; we keep the time of all the clerks in the office; they are required to be there from 9 till 4.

Q. You keep tally of the time they come there and the time they go away? A. No; I don't know as there is any tally kept any more than any other office.

Q. Do you know of any reason why the same system should not apply in a public office in that regard that does apply in any other office, for instance, a banking office or a factory? A. I don't know of any reason why it should not, but I don't know of any public office in New York where they adopt that system.

Q. Have you any means of telling whether your custodian is there at 9 o'clock and whether he stays till 4, and whether he is there at all? A. We have this means, that any person who is absent is bound to send notice to the office of his absence and the reason of it.

By Senator FASSETT:

Q. In the absence of a complaint of anything calling your special attention to it, you don't know whether he is there or not; you have not any system to determine it? A. I don't know whether I should say that; the persons occupying positions under me would report the absence of any person.

By Mr. IVINS:

Q. Are the records in better preservation from mutilation to-day than they were four years ago? A. I don't know what was done four years ago; as I say, I don't know anything about Mr. Reilly's term.

Q. Have you ever heard of a theft of any books from the office? A. I never did.

Q. Either during your term or any other person's term? A. I am certain not during my term.

Q. Does one custodian do any more or different work from another custodian? A. It depends; if we had a number of *subpænar*, *duces tecum*, why, I would call on a custodian to take a book over to the court.

Q. What custodian do you ask to do that; any one particular custodian? A. No; there isn't any particular one; I say that if such a thing occurred I should.

By Senator FASSETT:

Q. He would be the man you would select as a messenger? A. Yes.

By Mr. IVINS:

Q. Why is it that one custodian gets \$1,500 a year and another custodian gets \$1,200, and another custodian gets \$900 a year; what does

Mr. More do different from what Mr. Mendelsohn does, and what does Mr. Mendelsohn do different from what Mr. Hernan does? A. Mr. More has general supervision of the books of the office and Mr. Hernan is in the mortgage index room; Mr. Mendelsohn is in the west aisle on the ground floor.

Q. Has the question ever been called to your attention as to whether or not the city would be responsible in case you were to lose any books? A. I would be responsible personally.

Q. You would be responsible, but don't you think the city would be responsible too, you being the paid official of the city? A. I am under bonds; under \$40,000.

Q. You are responsible to the city? A. Yes.

Mr. IVINS.—There is no way in which the city could be responsible, because it is the city's own property.

Q. These books that these custodians have charge of are the property of the city itself? A. Of the city itself.

Q. How do you account for it that during Mr. Reilly's term only one custodian was necessary, at a salary of \$1,074, and now there are nine custodians necessary at \$9,600; will you explain how it is that one custodian at \$1,074 was sufficient when the register paid the custodian himself, and now that the city has to pay for it, it requires nine custodians at \$9,600? A. I can explain the way these custodians are allotted to the different aisles of books in the office; for example, this year we have added a new floor to the building; to commence with, there is an additional floor to the building, which was prepared by the department of public works for the reception of those books which were the least consulted, in order to make room for those transacting business with the office.

By Senator FASSETT:

Q. Is the office, with that difference, the same as it used to be? A. I submit that I think it would be fairer to take last year and this year and compare them; 1884 and this year, it seems to me, are quite distant; we should take last year, or we should take 1887.

By Mr. IVINS:

Q. What I want is to compare the fee system with the present system. A. What I wanted to do was to compare last year with this year.

Mr. IVINS.—We will compare them. We have got it all here. I am not comparing your administration with the administration of Mr. Slevin, for the reason that he and you are both operating under the same system. That comparison has been made. What we want to

find out now is the basis of comparison between this system and the fee system prior to the passage of the law of 1887.

The WITNESS.— Did you say 1884 or 1886 ?

Mr. IVINS.— Eighteen hundred and eighty-six. In 1886 there was one custodian. Now, four years later, there are nine custodians.

Senator FASSETT.— Is it the same office ?

Mr. IVINS.— When it came out of Mr. Reilly's pocket it cost \$1,074, and not that it comes out of the pocket of the city it costs nearly \$10,000.

Senator FASSETT.— That is probably the reason.

The WITNESS.— That is not my answer, of course. I want to figure up the number of books that have accumulated since 1886. They accumulate at the rate of about 230 a year.

By Senator FASSETT:

Q. Are there nine times as many books now as there were in 1886?

A. No; I don't think there are.

Q. Are there twice as many? A. The books are differently distributed now from what they were in 1886; on the lower floor in the west aisle there is a custodian; in the east aisle there is a custodian; in the mortgage index room there is a custodian.

By Mr. IVINS:

Q. Then the question arises, is there a custodian needed in each of those places? A. I believe there is.

Q. What does the custodian do in those places? A. He supervises the books there.

Q. Isn't it a fact that those custodians are out of the office over half of the time? A. No; not to my knowledge; if they were, I should remove them.

Q. Would you be surprised if you were to learn it? A. Yes; I should remove them.

Q. Would you be surprised if you found out that the majority of those custodians virtually held sinecures? A. I would be very much surprised.

By Senator FASSETT:

Q. You occupy the same building now that was occupied in 1886? A. Yes, sir.

Q. And with the addition of this extra floor the office is the same as it was in 1886? A. As I remember it; yes.

Q. The doors of ingress and egress are the same, are they not? A. Yes, sir.

Q. Is it the main business of a custodian to guard the books from mutilation or to guard them from being taken away? A. I think his duties are both.

Q. Couldn't a custodian stationed at the door see to it that no books were carried out? A. The custodian's further duty is to put the books back in the rack after they have been used.

Q. Isn't that the duty of the person who uses the book; don't your rules require that the person who takes the book down should put it back where he got it? A. They don't usually do it; it may be the rule; I have not had any rule on it; I know that they don't do it.

Q. How many floors are there in the office? A. There are three floors.

Q. Couldn't one custodian at the door and one on each floor see to it that the books were not mutilated or carried away? A. I couldn't say.

Q. Don't you think you could get four good active fellows who would undertake to do that—or is this a case where your predecessor did just as you have done? A. I am not prepared to say that four men could do the work.

Q. If you did, that would be like impeaching your own record, wouldn't it? A. I should think it would.

Q. You never made the effort to get four men to do it? A. No; I did not.

Q. And there were nine men employed by your predecessor? A. I am not quite sure of that; I don't know how many were employed.

By Mr. IVINS:

Q. You said there were 1,200 and odd requisitions for searches? A. One thousand two hundred and eighty-six for searches.

Q. As against about 2,500 last year? A. Yes, sir; I think that is it.

Q. The appropriations for searchers and the provision for searchers for this present year, then, was made sufficiently large to take care of 2,500 searches, wasn't it—that is, it was made on the basis of last year's searches? A. No; the board of estimate and apportionment reduced the number of searchers from last year, I think, about four; I think they were reduced about four.

Q. But it was reduced by four so as to compare last year with the year before act, was it not? A. Yes, sir; I assume that was so.

Q. And on the theory that a reduction of four would enable your searchers to make 2,500 searches, that is as much as have been made the past year? A. Yes, sir.



Q. Now, as a matter of fact, your searchers only had half as many searches to make as it was estimated they would have to make? A. I presume that is correct.

Q. Can you tell us why it is that they didn't have sufficient time to make these two extra searches within business hours? A. Because I didn't think that the statute required it to be done.

Q. Did the statute require that the men should be idle? A. It didn't; but the statute required that they should do the regular work of the office, and I consider that this work was outside of the office altogether.

Q. Isn't it a fact that you had more searches allowed to you in the expectation that the regular work would be larger than it was, and more searchers than there was any necessity for? A. I can't say that; that was a matter for the board of estimate and apportionment.

Q. Do not the figures show it? A. The figures show this, that the income from the searches is about \$7,000 or \$8,000, and the expenditure is \$19,000; that is occasioned, as I remarked before, by reason of the title companies taking all the business from the register's office.

Q. I think we have found some other reasons as we have been going on here? A. I don't know of any other; to illustrate, I heard that one of the title companies last year made as much as \$86,000 out of searches; I don't know that, it is purely rumor.

By Senator FASSETT:

Q. You answered, Mr. Ivins, as I understand, that the estimate under which you are working is one made by your predecessor? A. Yes, sir.

Q. On the theory that the work of this year would be the same as it was last year, presumably? A. I don't know what his idea was.

Q. Do you know whether you are asking as much for searchers this year as was granted the last year? A. I couldn't answer that without seeing the provisional estimate.

By Mr. IVINS:

Q. You said there were 1,286 searches this year and 2,500 last year? A. Yes, sir.

Q. And that the 2,500 last year were as much smaller than the number of searches the year before? A. I don't know anything about that.

Q. The record will show it; now, inasmuch that it appears that there were only 2,500 searchers last year the board of estimate and apportionment reduced the number of searchers by four, didn't they? A. That is my impression; yes, sir.

Q. And the impression was that the number of searchers you

appointed would be able to do the amount of work that had been done that year? A. I assume that is so.

Q. If that is the fact, the work this year appears only to have been one-half as large as it was estimated it would be, and they only had 1,200 searchers.

Senator FASSETT.—How much has he estimated for next year?

Mr. IVINS.—Before we come to that I want to take up this other matter that we have had figured up as to this bookkeeper that received \$570 for keeping accounts showing the receipt of \$1,600. Mr. Tate has figured this up, a number of lines.

Mr. TATE.—It amounts to 1,107 lines to the 1st of October, 1890, and \$570 would be fifty-one and one-half cents a line.

By Mr. IVINS:

Q. So that your bookkeeper already in your employ has had fifty-one cents for every line that he wrote in that book; is that correct? A. I have not figured in that way; if those figures are correct I assume that is so.

Mr. IVINS [to Mr. Tate].—Those figures are correct, aren't they, Mr. Tate?

Mr. TATE.—Yes, sir.

Senator FASSETT.—And the line consists of the name of the person, the nature of the service, how much it cost, and the extension of the cost.

Mr. TATE.—Yes, sir; and at the bottom there is also a summary. I counted that. I didn't count the lines in which arrears have been made and the lines erased.

Mr. IVINS.—The line consists of the word "the" "mortgaged" the name of the person, the entry of the amount, and again the entry of the amount and for every time that that bookkeeper did that, he received fifty-one cents.

Q. Does that building need any more watching now than it needed four years ago? A. How do you mean?

Q. Do you need more watchmen than were needed four weeks ago? A. I don't really know what were there four years ago.

Q. Then I call your attention to the fact that one watchman did the job four years ago, at \$1,000 when the register paid for it, and there are two watchmen now at \$1,800? A. Yes, sir.

Senator FASSETT.—Is that \$1,800 apiece or \$900 apiece?

Mr. IVINS.—Eighteen hundred dollars for the two, \$900 apiece.

Q. Now, you have a map clerk; tell us what the map clerk does?

A. In connection with the map clerk I have learned since recess the

draftsman is Marcus O'Donnell who is constantly at work drawing the maps and Hart is the custodian of the maps who hand them down to the men.

Q. Hart is the liquor dealer? A. I didn't say he was a liquor dealer; you said he was.

Q. I asked you and you said Mr. Hart was a man who was in the liquor business? A. I understood he was.

Q. And what he does is to hand the books down to the map clerk? A. No; he does not hand the books to the map clerk; he has charge of the maps.

By Senator FASSETT:

Q. Is he the custodian of the maps? A. Mr. O'Donnell is constantly employed in drafting maps; Hart has charge of the maps and as they are asked for he reaches to the pigeon holes and hands them out to whoever may request to see them.

By Mr. IVINS:

Q. These maps are kept in circular tubes, are they not? A. Yes, sir; about probably, from the floor to the ceiling, ten or twelve feet; he has to use a ladder.

Q. That necessitates his presence there all day? A. Yes.

By Senator FASSETT:

Q. How many maps are they? A. I think there are about 1,000.

By Mr. IVINS:

Q. Is there any reason why it should require two map clerks at \$2,400 for the two as compared with one map clerk at \$1,049 under the fee system? A. Map Clerk O'Donnell is constantly employed at present in drafting maps; I suppose his time is taken up constantly from 9 o'clock till 4 with the lunch hour out; and in order then to attend to the wants of those who have business in the office I think it is necessary to have a person who can attend to the handing out of these maps and see to their proper restoration in the proper pigeon holes where they belong.

By Senator FASSETT:

Q. Otherwise there would be no reason why the man who was drafting maps could not get a map as often as he wanted it and return it as often as he was through with it? A. No more than that there would be trouble in getting your maps on to paper as fast as you want to have them; if he had to leave his work constantly he would do very little work, so far as drafting the maps is concerned.

Q. Does the other map clerk hand down maps for the use of others than the draftsman? A. Certainly; the lawyers come in and request to see such and such a map, and the second one attends to that; the map clerk would attend to himself if he required to see one himself, and take it over to his drafting table and compare it.

Q. Do you think that work has doubled in four years? A. I think the demand for a map clerk has doubled in four year; yes, sir.

Mr. IVINS.—Now, leaving out of consideration searchers, and leaving out of consideration recording clerks, I have read to you the entire expenditures or at least the entire list of officers who were employed by Mr. Reilly during the last year of the fee system. Mr. Reilly was enabled to conduct the entire office of that business, when it was much larger than it is to-day, all things considered, considering searches, and when the revenue was just larger, with the staff that I have referred to. There was a deputy register and an assistant deputy register in each case. There was a tickler clerk in each case. There was one delivery clerk then, and two now. There was one examiner then, and there are three now. There was one reader then, and there are three now. There was one bookkeeper then and one now. But there is a search clerk, and two temporary clerks now that were not known then. There was a grantee clerk then, and there is a grantee clerk now. There were four index clerks then, and there are eight now. There was a chattel mortgage clerk then, and one now. There was one custodian then, and there are nine now. There was one watchman then, and there are two now. There was one map clerk then, and there are two now, and in addition to that, I find that there are provided for by the board of estimate and apportionment, and paid for by the city treasury, clerks unknown apparently, and not required four years ago, as follows: A chief recording clerk at \$1,800; a certified copy clerk at \$1,000 a year; a clerk of powers of attorney at \$1,000 a year; a clerk of railroads and corporations at \$1,000 a year; five messengers aggregating \$4,440; a mortgage clerk at \$1,200 a year, and two assistant clerks at \$1,920. In other words, leaving out of consideration the recording clerks and the searchers, the board of estimate and apportionment has provided salaries for fifty men to do the work which was done by Mr. Reilly, under the fee system, with sixteen men. Now, you can take up that work, if you wish, at any time.

By Senator FASSETT:

Q. How many of these additional officers have you named yourself?

A. Do you mean of the employees?

[Senate, No. 80.]



Q. Yes. A. Personally?

Q. Yes. A. I have not named more than two or three.

Q. Have you increased the number of employes over those of last year? A. Only in the department of index clerks, and for the reason that I have suggested sometime since.

Q. You have accepted the office as you found it in the hands of your predecessor? A. Yes, sir.

Q. Does it keep you busy most of your time? A. I am there most of my time.

Q. That is you are there the six hours? A. Yes, sir; the major part of the six hours.

Q. Did you ever take up the office with the view to seeing if you could not cut down the expenses of administration? A. I looked at the office in this way, that with reference to the keeping up of the indexes, with reference to keeping account of the fees received with reference to recording, that nothing could be done but I think probably in the searcher's department that there might be something done.

Q. As a matter of fact, does your estimate for next year, your provisional estimate, differ in any appreciable amount from the estimate of your predecessor for this year? A. That is a matter of figures.

Mr. IVINS.—It is here; I will put it in; I will read it.

The WITNESS.—I want to explain it to the Senator before you read it; it seems to me that there is an increase over last year, and for this reason, under the block system, as it is popularly known, it is necessary to keep an alphabetical index, and for that work you require index clerks; that is an addition; that is something additional that we don't have this year; then under the old system of indexing we are obliged to close that up; as I suggested a moment ago, it is in some cases four months behind, or five months, whatever the figure was that I mentioned that time in answer to your question; the answer still holds good on that same thing; so that in reference to this next alphabetical index which must be kept as well as the block index, the appropriation is larger, but after next year you can do away with the old index clerks who are presently engaged on keeping up this old form of index; that thing could be done away with next year; that is after we closed it up.

Q. Excising from your provisional estimate for next year, the additional items which grow out of the block system and the items which grow out of the necessity for the additional number of index clerks for the purpose of closing up the old index, how does that provisional estimate compare with that made by your predecessor for

this year? A. I don't know what the provisional estimate made by my predecessor was; I know we were allowed \$125,150; that was the allowance made by the board of estimate and apportionment; I understood there was an application made for \$140,000; I don't know whether there was or not.

By Mr. IVINS:

Q. You got \$125,000? A. Yes.

Q. And you asked this year for \$150,000? A. We asked this year for \$153,250, for the reasons that I have explained.

By Senator FASSETT:

Q. How many thousands do those reasons explain? A. For clerical services under chapter 349, Laws of 1889—that is the block system act—\$15,250; that item was agreed upon after hearing Mr. Olmstead before the board of estimate and apportionment at the end of last month.

By Mr. IVINS:

Q. That would leave \$138,000 for the other items; wouldn't it? A. I will come to it in a moment; with reference to the item ten index clerks, after we close up the present book of indexes, I think we could do the work with five.

By Senator FASSETT:

Q. How many index clerks are you now employing? A. There are at present eight.

Q. And you ask for two more? A. I ask for two more to carry out the provisions of the act of 1889.

By Mr. IVINS:

Q. Now you ask for two more, because you have got to keep the alphabetical index up? A. Because I have got to keep the alphabetical index up and to close up the old index as well.

Q. How long have you got to keep up the alphabetical indexes and close up the old ones? A. We have got to keep up the alphabetical indexes so long as the law of 1889 is on the statute book; you see we have got to keep up two indexes, the block index and the alphabetical index, under the act of 1889.

Q. And, in your judgment, ought that law to be repealed so that you would have only to keep up one index as the new index and abandon the alphabetical one? A. I think before answering that question that I would like to see some important members of the conveyancing bar;

I understood that that provision of the alphabetical index was put in to oblige or accommodate some members of the conveyancing bar.

By Senator FASSETT:

Q. What does the cost amount to of those ten indexing clerks?

By Mr. IVINS:

Q. You have eight already? A. Yes, sir.

Q. And the increase is how many? A. Two.

Q. That amounts to how much? A. Two thousand four hundred dollars; but you know the alphabetical index has got to be kept up as well as the block index; there are two forms of indexing.

Q. Is your office insufficiently equipped to-day? A. No, it is not.

Q. It is quite sufficiently equipped? A. In my judgment; yes.

Q. Now, you have asked for \$15,000 because of the increase of work under the block system? A. Yes.

Q. And you have asked for \$2,400 additional for searchers? A. Yes.

Q. That is \$17,400? A. Yes.

Q. Is there any other increase of work in your office besides those two items? A. Not that I just recall now.

Q. Then, why should you ask for \$136,000 next year as against \$125,000 which you have got now, in view of your testimony that your office is sufficiently equipped? A. Sufficiently equipped under the present law, but we go under a new law next year; at present you said.

Q. But you have put in your new law at \$16,000 and \$24,000? A. I don't understand it so; I don't get that point.

By Senator FASSETT:

Q. You have asked in your provisional estimate, for next year, for \$153,250? A. Yes, sir.

Q. That is right, is it? A. That is correct.

Q. Of that \$15,250 is due to the block system? A. To the block system exclusively; and the alphabetical index clerks.

Q. For the alphabetical index clerks there is how much? A. For the alphabetical index clerks there are these ten index clerks, assigning say five or four to close up the present indexes, and assigning six to the block system.

By Mr. IVINS:

Q. You have eight already? A. Yes, sir.

By Senator FASSETT:

Q. You have eight now? A. Yes, sir.

Q. So then the difference between eight and ten is two? A. I want to say that those eight were put on for the purpose of bringing down the indexes; they were way behind.

Q. They are there to-day, are they not? A. Yes, sir.

Q. There are two extras? A. Yes, sir.

Q. That would account for \$2,400? A. Yes, sir.

Q. Then \$2,400 plus \$15,250 would be \$17,650; is there no other items here which, on account of new laws, has compelled your making a larger estimate? A. The tickler clerk is increased to \$1,800.

Q. From what? A. From \$1,600.

Q. That is \$200 more? A. Yes, sir.

Q. That is in round numbers \$18,000? A. Yes, sir.

By Mr. IVINS:

Q. Just let us check them off; Mr. Hanley you asked the same for?  
A. Yes, sir.

Q. Mr. Fitzgerald you asked \$3,000 for? A. Yes, sir.

Senator FASSETT.—It seems to me we have them all now.

The WITNESS.—Here is an item of five special alphabetical index clerks; that is for the alphabetical index.

Q. That is \$5,000 for the alphabetical index clerks? A. Yes, sir.

Q. Making \$23,000? A. Yes, sir.

By Mr. IVINS:

Q. I don't understand the \$5,000 for five special alphabetical index clerks? A. There it is there.

Q. What are they to do? A. That is under the special act I speak of.

Q. Then you are going to have fifteen index clerks? A. I think we should need that number to keep under the new law and close up what is left under the old law; this has all been done, after advising with Mr. Arnold and Mr. Olmstead; there has not been any step taken whatever without getting the views of those gentlemen about it.

Q. That makes \$23,000? A. Whatever the figures are.

By Senator FASSETT:

Q. In round figures it makes \$23,000; subtract \$23,000 from \$153,000 and you have \$130,000, which seems to be something like \$5,000 that you asked for more than you had this year, and yet you say your office is sufficiently equipped? A. There it also another item; we are sufficiently equipped to do the work as at present done, but we are not sufficiently equipped to do the work for next year, for the reason that I have assigned.



By Mr. IVINS:

Q. You have given reasons which account for \$23,000 of the difference; how do you account for the remaining \$5,000? [Not answered.]

By Senator FASSETT:

Q. Where is the other \$5,000? A. That probably is in that item of of \$40,000 for recording clerks and clerks on satisfactions of mortgages; the satisfactions of mortgages were way back when I took charge of the office; there is probably an increase thereof of \$5,000.

By Mr. IVINS:

Q. Have you stated the number of clerks? A. No; because we can't.

Q. Don't you state the number of clerks that you want? A. No; you can't in that department, because the work is piece-work; if a clerk does fifty folios he gets five cents a folio for it, if he only does twenty folios he gets five cents a folio.

By Senator FASSETT:

Q. Right in that connection I see by your estimate here that recording clerks gets five cents a folio for the work they do? A. Yes.

Q. Is that any harder work than the clerks do on this preserving the records? A. The old record clerks?

Q. Yes. A. The work of the old record clerks is much harder.

Q. Is that a fair compensation, five cents per folio? A. I am not prepared to say that; I know it has been the custom of the office to fix the compensation at that rate.

Q. The clerks are satisfied with that rate of five cents, are they? A. I have not heard any objection from them; if they could get the work they would be very well satisfied, I understand.

Q. If it is a fair compensation to pay five cents per folio for recording clerks — A. This is based on the custom here before.

Q. When a custom once establishes itself in a department it maintains itself there? A. Well, if it is found to be a very proper custom, I should think it would.

By Mr. IVINS:

Q. It generally does continue to prevail, unless someone kicks, doesn't it? A. I suppose the custom continues.

Senator FASSETT.— The excise commissioners excused everything we found fault with on the ground that it came down to them.

Q. Have you ever known of a change in your department or in any department of the city government being made without someone

having objected and raised the issue? A. I don't know anything about any department but my own; I have not heard anybody object to that yet.

By Senator FASSETT:

Q. If five cents per folio is fair compensation for recording clerks, is not sixteen cents per folio a pretty large price to pay the transcribing clerks? A. The old record clerks?

Q. Yes. A. No; I think not, and for this reason, in these old records, you will probably run across a page with the ink of it very hard to make out and probably another page torn and dogeared all the way through; you will find them very frequently there and I think I can show you them now.

By Mr. IVINS:

Q. Are they one-half or one-quarter of the pages or ninety per cent of the pages? A. Probably twenty-five per cent of the pages; it is 100 per cent of the pages so far as the faded ink is concerned.

Q. Now, I call your attention in that connection to this fact, if the 10,003 pages which are shown on your pay-rolls to have been done during the months of January, February, April and March of this year, and for which \$7,374 was paid, had been paid for on the basis of five cents a folio, which is what you pay your recording clerks, it appears that it would only have cost the city \$3,501 instead of \$7,374; is there any reason why — A. I don't think that five cents a folio would be fair compensation for that work.

By Senator FASSETT:

Q. Did you ever try to get them to do it for five cents a folio? A. No; I never did.

By Mr. IVINS:

Q. Don't you believe that if you were to advertise for applicants for clerical services to do that work for five cents per folio, men who could give you bonds and bring proper recommendations, you could get the work done on that basis? A. I couldn't say.

By Senator FASSETT:

Q. You never tried it? A. I never tried it.

[Provisional estimate for the coming year as produced by the witness offered in evidence by Mr. Ivins, and marked Exhibit 9 of this date.]

Adjourned to to-morrow morning at 11 o'clock.

## EXHIBIT No. 9, OCTOBER 14, 1890.

REGISTER'S OFFICE, HALL OF RECORDS, }  
 September 10, 1890. }

*To the Honorable the Board of Estimate and Apportionment :*

GENTLEMEN.—In compliance with the provisions of section 7, chapter 531, of the Laws of 1884, I herewith transmit to your honorable board the following estimate, specifying in detail the objects thereof, of the amount of expenditure required in the office of the register for the year 1891, viz.:

	Estimate 1891, for salaries.
Register.....	\$12,000 00
Deputy register .....	5,000 00
Assistant deputy register.....	3,000 00
Satisfaction clerk .....	3,000 00
Tickler clerk .....	1,800 00
Assistant tickler clerk.....	1,200 00
Grantee clerk .....	1,500 00
Chattel mortgage clerk.....	1,800 00
Assistant chattel mortgage clerk .....	1,200 00
Search clerk.. .....	1,500 00
Account clerk .....	1,200 00
Three examiners, one at \$1,600, two at \$1,200 each.....	4,000 00
Three readers at \$1,200 each .....	3,600 00
Two delivery clerks, one at \$1,500, and one at \$1,200....	2,700 00
Ten index clerks, one at \$1,500, and nine at \$1,200 each.	12,300 00
Certified copy clerk.....	1,200 00
Two map clerks at \$1,200 each.....	2,400 00
Eight custodians of records and instruments, one at \$1,500, one at \$1,200, and six at \$1,000 each.....	8,700 00
Two watchmen at \$900 each.....	1,800 00
Four messengers at \$900 each.....	3,600 00
Eight searchers, six at \$2,500 each, two at \$2,000.....	19,000 00
Recording clerks at five cents per folio, and clerks on discharges of mortgages.....	40,000 00
Five special alphabetical index clerks at \$1,000 each....	5,000 00
For clerical service, chapter 349, Laws 1889.....	15,250 00
	<hr/> \$752,750 00
For contingencies.....	500 00
Total .....	<hr/> \$153,250 00 <hr/>

Respectfully.

FRANK T. FITZGERALD,

*Register.*

WEDNESDAY MORNING, *October 15, 1890.*

The committee met pursuant to adjournment.

Present—Senators Fassett and Ahearn.

FRANK T. FITZGERALD, being recalled, testified as follows:

By Mr. IVINS:

Q. When we stopped yesterday afternoon, Mr. Fitzgerald, we had been inquiring concerning the work of the map clerks; you said the map clerk spent his time in drafting maps; now, tell us what maps he drafts; I understood you to say that the map clerk drafted maps, and Mr. Hart, who assisted him, got the maps down for examination? A. Well, not for the purpose of drafting those maps that he took down for examination; the maps that Mr. Hart would hand down would be those requested by the lawyers or any person having business with the office; Mr. O'Donnell is here; he would probably know more about the detail and technicality of the work than I do; there are about 1,100 maps in the office; you know about what they are.

Q. Now, what does the chief recording clerk do; I find that there was no such officer during the time that this was a fee office? A. The chief recording clerk supervises the work of the folio writers and also stamps the papers after being compared; he adjusts the register's stamp; then they are sent to the desk for the register's signature.

Q. That means the deputy register's signature? A. Or myself, or the assistant, whoever is there, they all have authority to sign.

Q. Then he is a sort of aid to you and the deputy register? A. I don't know as you could call it that, because he does not aid us at all any more than in the sense of overlooking the work of the folio clerks, and also of adjusting this stamp, assisting probably Mr. Smith; he would be more of an aid to Mr. Smith.

Q. How does he overlook the work of the folio clerks? A. Well, he investigates the number of folios that are written in the libers.

Q. That is for the purpose of checking off the pay-roll? A. Yes, sir.

Q. Have you any idea how many documents are brought in per diem on the average on which he has to adjust the stamp? A. Well, he does not adjust the stamp, you know, until the document is copied; until it is copied and compared.

Q. Well, have you any idea as to how many documents he is required to adjust the stamp on per diem? A. I suppose in a year probably about 30,000.

Q. Well, that would be about a hundred a day? A. I suppose about that.



Q. Somewhat less than a hundred a day? A. I should think about that; I am not quite certain, you know, but I should think about that.

Q. What are his working hours? A. From 9 o'clock until 4, sir.

Q. Who is the chief recording clerk? A. James Hines.

Q. Did you find him in the office? A. No, sir.

Q. You appointed him? A. Yes, sir.

Q. What was his business prior to his appointment to this place?  
A. I understood he was an undertaker; I think that is his business.

Q. He is the one of whom you testified yesterday that he was an undertaker? A. Yes, sir.

Q. Do you know whether he is still in the undertaking business?  
A. I think he is; that I am not certain about; I believe he is.

Q. Now, what does the certified copy clerk do? A. The certified copy clerk, when an application is made for a certified copy of any paper in the office, it is the duty of the certified copy clerk to make that copy.

Q. Can you explain how it was possible to get along without a certified copy clerk under the old system? A. The only explanation that I can give about it is, the certified copy clerk was there when I took office; I don't know whether he was there under the old system or not.

Q. I asked to have the books which were here yesterday morning brought back this morning; that is, certain libers containing powers of attorney and certain libers containing certificates of religious corporations? A. I think the books are here.

Q. What is the name of the clerk on powers of attorney; Grimes?  
A. I think Grimes; yes, sir.

Q. Francis J. Grimes? A. Yes, sir.

Q. Did you appoint him to office? A. Yes, sir.

Q. Where does he live? A. Grimes lives in the Fourth Assembly district; he was appointed on the recommendation of the Jeffersonian Democracy; Shields, over there.

Q. On the recommendation of Shields' party? A. The recommendation of that Democracy.

Q. The Shields Jeffersonian Democracy at that time was in active co-operation with Tammany Hall, was it not? A. I think not, because Grimes was appointed the first of last January.

Q. Was not Mr. Shields' Jeffersonian Democracy acting in concert with Tammany Hall in that district last fall—at last fall's election?  
A. I think not, beyond myself.

Q. They were with me? A. They were with me; yes, sir; that I know; I do not know anything about the rest of the ticket.

Q. And you appointed Mr. Grimes for them? A. Yes, sir.

Q. Did that cancel the account, or did you make some other appointments for them? A. No; there was a man named Driscoll appointed on that account.

Q. Driscoll? A. Yes, sir.

Q. Anybody else on that account? A. No, sir.

Q. Do you think that is enough for one district? A. Well, I can't express any opinion about that.

Q. Well, now what was Mr. Grimes' business before? A. I haven't the slightest idea, sir.

Q. Did you make any inquiry? A. No inquiry, beyond the recommendation of those people there; they said he was a good man; I understand he is a good clerk; does his duty properly and faithfully.

Q. Have you personally ever taken any steps to see how he does his duty? A. Well, personally, I can't say that I have; no, sir.

Q. Now, what are his duties? A. Well, his duties are—is he the power of attorney, or religious corporation?

Q. Power of attorney? A. His duties are to copy the powers of attorney that come in the office and also to copy any expedited papers; for example, a lawyer has a mortgage or a deed which he wants in a hurry, within two or three days, and that request is left and we try to accommodate them, and if Grimes or Driscoll—they both help in that direction—if they happen to be disengaged, they take charge of that and copy it, in fact, that is what they do together, copying the powers of attorney and religious corporations.

Q. Mr. Grimes entire work then consists then of copying the powers of attorney and the expedited papers? A. Yes, sir.

Q. And does he do anything else in the office? A. Well, not that I know of.

Q. The copies of expedited papers are not records of the office? A. They are records of the office, but in this way, a lawyer leaves a deed or mortgage to be recorded at length, well now the usual course would be that the paper would not be returned probably for six weeks; it would take that long you know to copy.

Q. Would it be returned in six weeks? A. Well, not at present; that is so.

Q. Have you ever returned papers within six weeks since you have been there? A. Yes, sir.

Q. Well, we will not take that up now; we will return to it; the paper will not be returned within six weeks? A. I say usually all papers are returned or ought to be returned within six weeks; now, if a deed was to be hurried; if a person wanted it in a hurry, Grimes or Driscoll would be put upon that work.

Q. They would be put upon the work of recording it? A. Recording it at length; yes, sir.

Q. Is there anything in your office which shows how many of such papers have been so recorded at length in order that the original might be returned quickly? A. No; I don't think so; I don't think there is any record, because it is purely a matter of accommodation to the bar; I have no right to do it, you know.

Q. Then, part of the time of these people is taken up, or part of the time of Mr. Grimes is taken up, in one function which you have no right to perform? A. I do not put it in that way; I have a right to record the paper at length, and the reason this is hurried is purely a matter of accommodation to the lawyer; while I have been there I have endeavored to accommodate the bar.

Q. Is there any means of telling how many things of that kind have occurred? A. I don't know of any.

Q. Is there any means of telling how much work of that kind has been done by either of these men? A. I think so if it was investigated; I will be glad to look it up; I will talk with the deputy about it and see if we can't look it up; I would be very glad to do it, indeed.

Q. Henry Driscoll, you say, is the record clerk for religious corporations? A. Yes, sir.

Q. And he was appointed at the request of the Jeffersonian Democracy of Mr. Shield's district? A. Yes, sir.

Q. What was his business before he was appointed? A. I do not know, sir.

Q. Did you make any inquiry? A. Not beyond the inquiry of the recommendations that were made for his appointment at the time; they told me he was a very good man; a competent man and a very good clerk, and I understand that he is so.

Q. Did you look at his handwriting? A. I don't think I have, but I understand that he is a good clerk.

Q. From whom do you understand that he is a good clerk? A. Well, Mr. Hanley told me so.

Q. Does anybody else make a record of these religious corporations besides him; has anybody else in the office any duty in that regard? A. Not that I know of, sir; nobody else to do it.

Q. You say nobody else to do it? A. No, sir; not that I know of.

Q. Did you make any inquiries as to Mr. Driscoll's qualifications in point of skill as a copyist? A. Well, no special inquiry.

Q. Is it not a fact that you simply took him in his shoes as he stood because he had been recommended by these people? A. Well, that is about the English of it.

Q. And that is about the English of the Grimes' matter, is it not? A. They represented that they were both good men and good clerks and I assumed that if they were not they would have been reported to me and they would have been removed.

Q. Now, how much of Mr. Grimes' time do you think is taken up in copying this book of powers of attorney? A. I haven't any idea; I know that he should be at work constantly between 9 and 4 and longer than that sometimes.

Q. Would you be surprised to find that all he had done in entering powers of attorney was 248 pages for the last nine months, and that for that, 248 he had been paid \$750, or three dollars a page? A. Well, but there were some additional work done in that other department I speak of; it would not surprise me if that were all the powers of attorney that were filed in our office for the last nine months, and they were all written in; it would not surprise me then, because I know that he has been engaged on other work; I have made special inquiry about it.

Q. Do you know how much of that other work has been done, that is the point I asked you about awhile ago? A. Yes; I said I would have to advise with Mr. Hanley about that; I think we can furnish that.

Q. An examination of these books shows the powers of attorney recorded since January 1, 1890, appear in Liber 21 of Powers of Attorney, from page 594 to page 700 inclusive, being 107 pages, and in Liber 22 from page 1 to page 141 inclusive, being 141 pages, making 248 pages, and if Mr. Grimes rendered no other service than that for the \$750 that he got, he would have got three dollars a page; now the question is, what other service he rendered and what that other service was? A. That service I referred to some time since; for example, he has written in the Saturday papers, probably.

Q. What do you mean by the Saturday papers? A. Well, the accumulations in the office during the half day of Saturday.

Q. You say "probably," do you know whether he did or not? A. Well, I think he did; I am almost certain he did, that he did part of that work.

Q. Do you know Mr. Grimes' handwriting when you see it? A. I don't think I ever saw it.

Q. Now, I will run hurriedly through this book with you for the purpose of trying to check off his clerical skill; on page 595 of Liber 21 of Powers of Attorney, in your judgment, as register, is that good work where the words "and appoint William M. V. Hoffman" are; the "M. V." is stricken out, and the "M. V." written above the



line, or the "M. U.," and the same thing occurs again? A. That probably was a correction when it was compared; of course, I admit that that special feature of that is not neat, but, you understand, that in copying these records the only way that corrections can be made is by interlinations.

Q. Would it not be better to appoint a man in the first instance who could do his work without the necessity for correction on the very first day he goes to work? A. It would be better, but I do not think you could find such a man.

Q. I think I could; now, "giving and granting to my sal;" the "sal" is stricken out, and the word "said" written in, and in a few lines before the word "act" is stricken out and the word "act" written in again; now, we come down to page 601; we find "collect and disdain" stricken out and "demand and restrain" —

Senator AHEARN.—Is that not liable to happen to any man?

The WITNESS.—I don't think you can find a clerk in New York copying these things who would not make some mistakes. The only redress we have in such a case is to interlineate.

Q. The next page, 603, is there any reason, in your judgment, why a clerk should write in the name of a party to a document and miswrite it "Charles E. Cambridge," instead of "Charles E. Camidge," and so necessitate that correction on the face of the document on one page, and then on the next page to write an entirely wrong name, and be compelled to write in the name of "Thomas Sanderson" instead of it in the transcript of one document; is that what you call careful work; good clerical work? A. It may not be good clerical work, and it might be careful work.

By Senator AHEARN:

Q. Could not that happen and not be the fault of the man who put it down? A. No; I don't know as it would.

By Mr. IVINS:

Q. Does anybody write in this book except Mr. Grimes? A. Well, I could not say that.

Q. Then even all this work may not be done by Grimes? A. I am not familiar with the handwriting of those clerks.

Q. This document, at page 620, does certainly not appear to you to be in the same handwriting as the document at page 621? A. It does not look as if it were in the same handwriting.

Q. Now, does the document on page 622 look as if it were in the handwriting of either of the preceding documents? A. No; it does not look so; it may be, too.

Q. Does the document on page 623 look as if it were in the handwriting of either of the three preceding documents? A. No; it does not.

Q. Then it appears that four documents, running right along in succession, from page 620 to page 625, are in the handwriting of four different people? A. I don't know that that is a matter of fact.

Q. It appears so on the face of it? A. The appearances indicate that way; I don't know as a matter of fact that it is so.

Q. Is there any way for you to tell; do you know which of this handwriting is Mr. Grimes and which is somebody else's? A. No; I could not tell, because I never saw Grimes write.

Q. Is it not quite possible that the handwriting in those first pages that I referred to which are the first written in after Mr. Grimes' appointment, may not have been written by Mr. Grimes at all? A. Well, that might be; I could not tell you anything about that because I am not familiar with his handwriting.

Q. And it is quite possible that this neat work later on in the book may have been the work of Mr. Grimes? A. It may have been.

Q. Now, how are we going to find out which particular clerk is responsible for the entry of these particular documents? A. No way, only by calling Grimes to prove his handwriting.

Q. Now, it appears that the entries here have only covered during the past year 200 and odd pages, and it appears that those 200 and odd pages were not done by the same man? A. I don't say that as a fact, I don't know; there is a great deal of that very well done.

Q. Yes; a great deal of it is exceptionally well done and some of it is very badly done; the question is which is which; now, in regard to Mr. Driscoll's work in the recording of certificates of incorporation of religious societies, I find that from the first of January to the thirtieth of October, that is the first of the present month, these were recorded in liber 3 of religious incorporations and are contained in the pages from seventy-two to seventy-eight; Mr. Driscoll is entered as the recording clerk for the recording of these particular documents — A. And for any other recording work that may come up.

Q. And it appears that there have been seven pages of those documents done which, if Mr. Driscoll did nothing else than this — A. But he did something else.

Q. Would be equivalent to \$107.14, and it appears on the face of it that the pages are even in the handwriting of different people; now, will you look at that? A. He also copies, as I said, these expedited papers.

Q. Look at that page, are not part of the entries in this book in the same handwriting as part of the entries in the power of attorney book, liber 21? A. I could not express my opinion on that.

Q. Now, it is apparent on its face, is it not, or it appears on its face, that the record on page 74 of this book is not in the same handwriting as the record at the foot of page 75 of this book? A. I could not even tell that.

Q. That is not in the handwriting that this is in [indicating the two pages referred to]? A. I don't know; I don't see that there is very much difference in the handwriting; I don't know; they may be too.

Q. Now, do you know how many expedited entries there were? A. I do not; I think, as I remarked before, it might be found out after consultation.

Q. Now, I find out that there were no messengers employed in the office during the last year under the fee system, and that you now employ five messengers, will you tell me what their duties are? A. The duties of the messengers are to run errands for the register, if necessary, about his public business; one messenger takes the deposit to the bank every morning, and the other messengers attend in court in response to the subpoenas *duces tecum*.

By Senator FASSETT:

Q. That is two? A. We have as many as twenty-eight subpoenas *duces tecum* in one day.

By Mr. IVINS:

Q. Do you know who used to perform this service in the time of the fee system under Mr. Reilly? A. No, sir; I do not.

Q. Did not any clerk perform those services? A. I don't know, sir.

Q. These subpoenas *duces tecum* require you to take your papers where? A. Require the register to bring the paper to the court or at the place indicated in the subpoena and remain with them.

Q. That is either in the court-house here or at the office of some referee? A. Yes, sir; and frequently at the District Court at One Hundred and Twenty-fifth street or any of the district courts about the city or the police court.

Q. Is it a fact that you are frequently subpoenaed *duces tecum* to produce papers at a district court from your office; is not that a very exceptional thing? A. It is an exceptional thing; I was simply adding that; we would have to take them there if subpoenaed; I suppose we have from the commencement of the year for the district court, probably four or five.

Q. Is it not a fact that ninety to ninety-five per cent of those subpoenas required you to produce those documents in the court-house?

A. Ninety per cent?

Q. Yes; the vast majority of them require the papers to be produced in the court? A. I should say that it would be very safe to say seventy-five per cent certainly about the court-house; of course, you understand that when a messenger takes a liber, the messenger must remain with the liber until it is disposed of, used, or rejected, or whatever it may be.

Q. The court-house is right here within stepping distance from your office? A. Yes, sir.

Q. Within a stone's throw? A. Yes, sir.

Q. Right in the same square? A. Yes, sir.

Q. Do you keep a book in which any entries are made showing how many subpoenas of that kind are received and what is done with them?

A. That ought to appear on the cash book.

Q. Why? A. For the reason that there is a dollar paid when a subpoena is served on the register, and that dollar should be turned into the city.

Q. How many such subpoenas do you say there are per diem? A. Well, I could not give any average about that.

Q. Well, to your knowledge, are they sufficient to require a messenger to be employed in at least one case each day? A. Oh, I think certainly that; yes; there is no doubt about it.

Q. There is no doubt about that? A. I think more than that.

Q. Now, do those messengers that attend to this *duces tecum* business attend to anything else? A. Why they are in and out of the office.

Q. Well, what do they do in and about the office? A. Well, as I described, they attend to the errands, whatever may be required of them.

Q. Do you think the volume of litigation in which such books are required for the purposes of evidence has materially increased in the last three years? A. On the supposition that the litigation of the city is increasing on account of the increase in population.

Q. Do you think it has increased so much that you need messengers to do it now, whereas none were needed to do it three years ago? A. All I know is that these messengers came down from the other administration.

Q. Now, who are these messengers; one is John Mulholland? A. Yes, sir.

Q. At \$900 a year? A. Yes, sir.



Q. Did you appoint him? A. No, sir.

Q. Did you appoint Philip V. Welch? A. Yes, sir.

Q. Who is Welch? A. He resides in the first district.

Q. What was his business before you appointed him? A. I think he was in the fish business in Fulton Market.

Q. Is he still in the fish business? A. Well, I don't know.

Q. Have you ever made any inquiries to find out? A. No, sir; I have not made any special inquiries.

Q. Do you not think Mr. Welch could perform the duties he has to perform here and quite well attend to the fish business simultaneously? A. I don't know as he could; he would not be allowed to do it.

Q. Not if you knew it? A. No, sir.

Q. Have you ever taken any steps to know it? A. The only steps taken are to see that the office is properly conducted?

Q. He is a member of your organization, is he not? A. Yes, sir.

Q. In your district? A. Yes, sir.

Q. What office does he hold in your organization? A. He does not hold any office beyond being a member of the general committee.

Q. Did you appoint Thomas Quinn? A. Yes, sir.

Q. Who was he? A. Well, I have no objections to say, but I would like to talk with the chairman before that; if you would come up I would just tell you here.

Senator FASSETT.— Might go into secret session about it.

The WITNESS.— No, there isn't any secret about it.

After consultation with the attorney and committee, the witness answered: Well, he was recommended by a clergyman.

Q. And is he a good clerk? A. Yes, sir; a good messenger.

Q. What part of the messenger service does he do; is he the one who is in the office or the one who attends to these subpoenas? A. Well, there isn't any special one to attend to the subpoenas, whoever happens to be there; he is in and about the office constantly.

Q. Why does he get only \$700 a year and the others get \$900, or \$720 and the others get \$900? A. I don't know that there is any special reason except the scale of graduation of salary.

Q. What is the reason for the scale of graduation of salaries in that particular service? A. I can not assign a reason for it.

Q. Have you a man named Keenan in your office; John B. Keenan? A. No, sir.

By Senator FASSETT:

Q. Or Kernan? A. I think there is a Kernan.

By Mr. IVINS:

Q. Have you a man named John B. Kernan? A. I think so; I think he is in the old records.

Q. In the old records department? A. Yes, sir.

Q. Did you appoint him? A. Yes, sir.

Q. Is he a custodian, or is there another man named John Hernan?

A. There is another man named John Hernan who is a custodian.

Q. I find "John B. Kiernan, recording clerk," at a \$100 a month?

A. That is old records I think.

Q. Did you appoint him? A. Yes, sir.

Q. Where does he live? A. I don't know where he lives, but I know for whom he was appointed.

Q. Whom was he appointed for? A. Commissioner of jurors Reilly.

Q. Had he been in the commissioner of jurors' office before that?

A. I am not certain about that.

Q. Did you make any inquiry about that? A. No; I did not.

Q. Did you ask Commissioner Reilly if he had been in his office?

A. No; I did not.

Q. Did you ask Mr. Reilly if he had been discharged from his office? A. No; I did not.

Q. Did you ask Mr. Reilly why he had been discharged from his office? A. No; Reilly recommended him.

Q. Would you be surprised, however, to learn that notwithstanding Mr. Reilly's recommendation, Mr. Reilly had discharged him from the commissioner of jurors' office? A. I think it would be a very strange occurrence; yes, sir; very strange indeed.

Senator FASSETT.—Mr. Reilly might have thought that he was a good enough man for you.

Q. Is that possible that Mr. Reilly might have thought that he was a good enough man for you, but not good enough for him? A. I could not tell what Reilly's thoughts were.

Q. Did you take that man as he stood in his shoes on Mr. Reilly's recommendations, without any further inquiries? A. Yes, sir.

Q. He copies the old records? A. Yes, sir.

Q. Did you take any steps to find out what his qualification for copying records was? A. No, sir; no special steps; Reilly said he was a good clerk; he knew him; he knew him to be a good clerk.

Q. Did Mr. Reilly support you in your election? A. I assumed that he did.

Q. You assumed that he did; Mr. Reilly also comes from the same district that Shields' Jeffersonian Democracy comes from? A. Yes, sir.

Q. But he is not on the same side as the Shields' Jeffersonian Democracy? A. I understand that there is a division of interest over there with reference to local matters; I don't know what the situation of the district is.

Q. You have, however, provided places for both divisions, is that the fact? A. Well, it looks so.

Q. It looks so, yes? A. I assume, however, that Reilly's recommendation of Kiernan, was on account of Kiernan being a Tammany man.

Q. Then between the Republicans, the Tammany organization, the Jeffersonian Democracy and the Reilly division, all have some representation in your office? A. Well, I don't know of any Republican who is there by reason of him being a Republican; there is a Republican there, I understand, but I assigned, yesterday, the reason for that; it was purely a personal matter.

Q. Are there any County Democrats in your office? A. Unless you want to call Grimes and Driscoll County Democrats.

Q. They were appointed, you said, for Mr. Shields? A. They were appointed for Mr. Shields; yes, sir; that is, on the recommendation of the Jeffersonian Democracy; I don't say that Shields had altogether to do with it.

Q. Any others? A. Ryan.

Q. You think Ryan is a County Democrat? A. Well, Ryan is in the district with Shields, I say.

Q. Oh, yes; now, are there any other county Democrats in your department? A. No; I don't think of any.

Q. You have a record clerk, John H. Mahar, who records satisfaction of mortgages? A. Yes, sir.

Q. Who is he? A. Mahar is a resident of the lower part of the city.

Q. Who appointed him? A. I did.

Q. What was his business before you appointed him? A. I don't know; he was recommended by ex-Alderman McCarthy.

Q. Of what district? A. The first district.

Q. Is he a member of your organization? A. McCarthy is; I don't think Mahar is.

Q. Did you ask McCarthy what Mahar's business was prior to his appointment? A. I don't think that that direct question was put; no, sir.

Q. Did you take any steps to find out? A. Beyond this that McCarthy told me that Mahar was a very good man, and that he would like to see him appointed.

Q. Did you take any steps further than listening to that recom-

mentation to discover what his qualifications for a clerkship were? A. Well, no; not any especially.

Q. Did you ask to see his writing? A. No; I think not.

Q. Did you ask whether he had ever been in clerical service of any kind? A. I don't think I put that question.

Q. Do you remember to have put any questions to him, or did you just agree to appoint him and then appoint him? A. Well, there was a little more formality about it than that.

Q. Tell us what the formality was? A. Well, Alderman McCarthy called on me and said he had a very good man that he could recommend for a position in the office; I said: "Very well, send him to me; I shall have his writing tried, and if he is satisfactory we will appoint him."

Q. Did you have his writing tried? A. I did; I left orders for that to be done, as we try all of them; everybody over there is supposed to go through that trial before they are appointed; they do, in fact.

Q. Do you know what amount of work he does in the course of a year? A. No; I could not tell.

Q. Is he a pretty busy man? A. I could not even tell that; that is probably left to the supervision of the deputy.

By Senator FASSETT:

Q. If you had to pay these men out of your own pocket, you would see to it that they were individually busy, would you not? A. Any business I would engage in would not require so many clerks, and for that reason I could bring under my supervision three or four clerks a great deal more readily than those that are in the office; of course, you have to assign a part of that work to subordinates; it would be an utter impossibility for one man to take charge of the whole thing and look at every line that was written in that office; it would be a physical impossibility.

By Mr. IVINS:

Q. But it appears that you have fifty-one clerks there to do the particular duties which, during Mr. Reilly's time, were performed by sixteen? A. Well, that I haven't any knowledge about; all I know is that those clerks were there under the former administration of the register's office.

Q. Did you appoint Edward F. Sheehan recording clerk for the discharge of mortgages? A. Yes, sir.

Q. Who is Mr. Sheehan? A. Mr. Sheehan's case is the same as Mr. Quinn's case.

Q. He was recommended by a clergyman? A. He is the brother of clergyman.



Q. Did you take any steps to check off his work? A. Well, no personal steps.

Q. Did you make any investigation as to his qualifications? A. Not beyond that his writing was tested before he was put in.

Q. There is another clerk of this same class, Patrick J. Delaney; did you appoint him? A. Yes, sir.

Q. Whom did you appoint him for? A. Personally; he was formerly a clerk in the Hudson River depot, and a very good clerk, and a very good penman.

Q. And knowing that, you thought he was a good man for the office? A. Yes, sir.

Q. How many of the custodians did you appoint; Matthew H. Moore? A. He was appointed, I think, by Mr. Slevin.

Q. Emanuel Mendelsohn? A. I appointed him.

Q. Whom for? A. For organization reasons.

Q. What were the organization reasons as affecting a clerk in a public office? A. He is not a clerk.

Q. He is a custodian? A. Yes, sir.

Q. What was the organization reason for your appointing him custodian? A. Because he had been a very ardent worker for Tammany Hall in the first district.

Q. That is your district? A. Yes, sir; and an ardent supporter of the organization.

Q. In other words, he had given you a boost and you gave him a boost? A. No; he never gave me any personal boost.

Q. Did he not help you in your election? A. Not that I know of.

Q. But he was an ardent supporter of the organization? A. Yes, sir; he opposed me, in fact, once.

Q. But not this time? A. No, sir; he was not with me at all times when I ran for office; I recognized in him a warm supporter of the organization, and applied the same rules that would be applied to any political organization to men.

Q. Is he still a hearty worker in the organization. A. Yes, sir.

Q. Do you know how much of his time is taken up in work of the organization, and how much of his time in the work of the office? A. The time taken up by work in the office should be from 9 to 4 o'clock; of course, after that I do not know anything about it.

Q. He is the one who has \$1,200 a year, whereas the others only have a thousand a year, and one of them only \$900; why does he get \$200 more than the others? A. Well, there isn't any special reason for it.

Q. Might it be a reason that he is an ardent worker for the organization? A. No; I don't know that that would enter into the graduation of the salary.

Q. What was his business before you appointed him? A. I think he was in the pawnbroking business.

Q. Is he not still in the pawnbroking business? A. I think so.

Q. And does he not attend to the pawnbroking business still personally? A. Well, I assume that he does outside of office hours.

Q. Have you taken any steps though to find out how much of his time is spent in the office during office hours? A. Yes, sir; I know that he spends most of his time there; that is during those hours we spoke of yesterday; from nine to four.

Q. Now, Mr. Fitzgerald, I want you to be very accurate about that; you say you know he spends most of his time there; how do you know it? A. Do you mean personally?

Q. Yes. A. I assume he does it; I don't, for instance, go out of my private office every hour in the day to find out.

Q. Do you want to go on record as being responsible for saying that you know that that man spends most of his time in the office during office hours? A. I want to go on record as saying that I know that he performs his duties from what I know and from what information I have.

Q. What steps have you taken to see in what manner he does his duty? A. There are no special steps employed more than would be employed in reference to anybody else there.

Q. Matthew Gilligan; did you appoint him? A. No, sir.

Q. He was an inheritance? A. Matthew Gilligan was an inheritance.

Q. Is he a Tammany Hall inheritance; is he a Tammany Hall man? A. Well, I understand so.

Q. John McDonough? A. John McDonough is not my appointment.

Q. Whose appointment was he? A. I think Mr. Slevin appointed him.

Q. Do you know what other business either Gilligan or McDonough had? A. No; I do not.

Q. Do you know whether they have any other business or not? A. No; I think not; they are both Grand Army men and could not be removed if I wanted to.

Q. Couldn't they be removed for cause, if they did not come to the office and do their business properly? A. Undoubtedly.

Q. Notwithstanding they are Grand Army men? A. Yes, sir.

Q. Who is Daniel A. Bostwick, Jr.? A. Daniel A. Bostwick is a custodian of the safe.

Q. Who appointed him? A. He was there before I took office.

Q. Do you know whether he has any other business? A. Not that I know of.

Q. Do you know whether he is continually in the office and in custody of the safe? A. I know that he is.

A. Who is Frank H. Gilhooly? A. Frank H. Gilhooly is a custodian.

Q. Custodian of what? A. In the register's office.

Q. Are you prepared to say that he is not the custodian of somebody's bar? A. I am prepared to say that he is engaged as one of the managers for McKeever Brothers of this city; he is here to-day.

Q. Is it not a fact that his time is mainly spent in superintending and watching a barroom? A. Well, not as I understand it.

Q. Have you ever taken any steps to find out how much of his time is spent in the barroom of which he is superintendent or keeper, and how much of his time in the office? A. I never took any steps to find out how much of the time he has been at his bar; I understand he has been at the office constantly; I understand he takes charge of this business at night; he is here to speak for himself.

Q. Who is John J. Moloney? A. John J. Moloney was in the office when I came.

Q. Has he any other business? A. Not that I know of.

Q. John Hernan? A. John Hernan is an appointment that I made.

Q. Whom did you appoint him for? A. Well, he was recommended by some societies.

Q. What societies? A. Some Irish societies.

Q. Were they Irish societies which had a particular interest in the good administration of the register's office, or were they just plain Irish societies? A. Well, I don't know any difference between a plain Irish society and an Irish society; I don't know whether there is any distinction or not.

Q. Did you ever have any reasons to suppose that they had any particular interest in the good administration of the office? A. I say I don't know as they took any political part.

Q. What other business has Mr. Hernan? A. I don't know.

Q. Have you ever taken any steps to inquire? A. No, sir; I know he is attentive to his duties.

Q. Do you know what his business was before he went in there as custodian? A. No, sir; I do not.

Q. Philip J. Fitzgibbon? A. Philip Fitzgibbon is the messenger who was here; he came down from a former administration.

Q. James Langan? A. He has been there some time.

Q. Is Fitzgibbon a messenger or watchman? A. Well, he is a watchman; for instance, he takes charge of the office, all that until Langan arrives at night; then Langan goes on and remains in the

office until morning; we have got to have a watchman there at night; and Fitzgibbon also comes down on Sunday and takes charge of the place on Sunday in the absence of the night watchman.

Q. Take the pay-roll for the preservation of the public records, did you appoint Mr. Burns? A. Yes, sir.

Q. Whom did you appoint him for? A. On the recommendation of an organization, I think.

Q. What organization is that? A. An organization uptown.

Q. Which one? A. I don't know whether it is the Jolly Fellows or what they call it.

Q. Who is the jolliest of these Jolly Fellows on whose particular application you made the appointment? A. I don't just recall.

Q. Will you tell us why you appointed Mr. Burns for the Jolly Fellows? A. Well, they had rendered some political service.

Q. In what district? A. In the twentieth, I think.

Q. Who is the Tammany Hall leader in the twentieth district? A. Mr. Carroll.

Q. Did he recommend the appointment on account of the Jolly Fellows? A. No, sir; he did not.

Q. It was a private and not an organization enterprise then; did you appoint J. W. Burns? A. Yes, sir.

Q. There is J. Burns examiner, and J. W. Burns, record clerk; what is the difference between the two, any more than the "W" or are they the same person? A. I will have to look at that; I don't think that is correct; John Burns lives 784 First avenue; that is the examiner.

Q. The jolly fellow? A. I suppose so; and John W. Burns lives 102 Monroe street; he came from the Fourth Assembly district and was there before I took office.

Q. The fourth district stands pretty well in your office? A. I should think so.

Q. I want to go back a moment to Mr. Gilhooly; was your attention ever called to the fact that after Mr. Mitchell was appointed civil justice Gilhooly applied for a clerkship in the Fifth Judicial district, and that although the examination was a non-competitive examination his papers were returned by the State Civil Service Board and marked incompetent; did you ever hear of that? A. Yes, sir; I heard that.

Q. And notwithstanding the fact that he had been rejected in a non-competitive examination you appointed him in your office? A. The civil service rules do not apply to our office.

Q. Is there any reason in view of the fact that all of the work in your office is either clerical or expert work that the civil service rules should not be made to apply to it? A. Well, I haven't any reason



why they should not; of course, the reason is that I am under bonds; I understand that is the reason they are not applied.

By Senator FASSETT:

Q. When the civil service law was passed that office was still a feed office? A. I understand where a person occupies a fiduciary relation and is under bonds to discharge his duties that the civil service regulations do not apply; that is my understanding of it.

By Mr. IVINS:

Q. This same Gilhooly who was a custodian and who was rejected in a non-competitive examination is as you say a superintendent for one of McKeever Brothers' saloons? A. I understand that is so.

Q. Now, to go back to Commiskey; you say he had been a barkeeper? A. I understood so.

Q. Had he not been a barkeeper for your father in Washington and Herbert streets? A. I haven't any reason to answer; when my father was in the business; yes, sir.

Q. As to Michael Hart, do you know that Hart now has two liquor saloons? A. No, sir.

Q. And that Hart has his own name over the door and that the business is run in Hart's name? A. I don't know that he has two liquor saloons, but I spoke to him after the examination yesterday and he said he was in the liquor business.

Q. One of his saloons is on the corner of Hubert and Hudson streets, is it not? A. I don't know; I know that he has one on the corner of Beach and Greenwich or Hubert and Hudson, I don't know, somewhere around the neighborhood there; I know he was in the business because I asked him since he was on the stand yesterday.

Q. What does Michael Kennedy do in your office? A. I haven't any Michael Kennedy in my office; Michael Kennedy was in my office for probably half a month.

Q. Did you appoint him? A. I appointed him and then—

Q. Discharged him? A. Discharged him.

Q. Why did you discharge him? A. Because he was appointed superintendent of stables in the street cleaning department.

Q. Did you know at the time you appointed him that he owned a liquor store at 28 Beach street? A. No; I did not.

Q. You know whether he now owns it? A. I do not know.

By Senator FASSETT:

Q. You say you do not know; you are speaking exactly now; you never saw his license? A. I never saw his license; I don't know whether he owns the store or not.

Senator AHEARN.— You know he does the duties assigned to the office properly? A. He is not there now; he is in the street cleaning department.

Q. This other man? A. Mr. Hart?

Q. Yes. A. Certainly he does his duty.

Q. From your own knowledge you know that all those clerks do their duty, and if they did not do their duty, you would be notified, would you not? A. Undoubtedly.

By Mr. IVINS:

Q. I. D. Henderson; did you appoint him? A. No; Henderson came down from the other administration.

Q. Were you asked to retain him? A. Yes, sir.

Q. Who asked you to retain him? A. Probably, Mr. Croker; I am not quite certain; probably so.

Q. Do you know what district Mr. Henderson lives in? A. I do not know.

Q. Did you appoint T. Boland? A. Mr. Boland was there when I took charge.

Q. Did you continue him in the service at the request of anyone? A. Boland; yes, he was continued, I think, at the request of Mr. Croker.

Q. Mr. Boland was also continued at the request of Mr. Croker? A. I think so.

Q. T. Wunderlich? A. Mr. Wunderlich was in the office when I went there.

Q. Was he retained at the request of Mr. Croker? A. Well, I don't know about that; no; I do not know as Wunderlich was specially retained; I know he was there, and was not disturbed.

Q. Do you know whether Wunderlich has any other business? A. I do not.

Q. Do you know whether Boland has any other business? A. I do not.

Q. Do you know whether Henderson has any other business? A. I do not.

Q. J. J. Riley, did you appoint him or retain him? A. I think Riley was retained.

Q. At the same request? A. I do not say that Mr. Croker made such request, I am not certain; but those clerks were nearly all there when I went in.

Q. Were most of these men on this list for the preservation of records, retained? A. Pretty much so; yes, sir.

Q. And generally speaking, on whose request did you retain the people whom you found in the office when you went in? A. Well, on the general request of the organization.

Q. The request of the organization as represented by whom? A. As represented by the executive committee.

Q. Who were the executive committee? A. The executive committee is composed of the chairman from each Assembly district.

Q. Well, was that representation in each particular case by some particular member of the executive committee, or by the act of the executive committee as a body? A. No; it was not by an act of the executive committee as a body; I suppose you might say that it was on the recommendation of Mr. Croker.

Q. He representing the entire body? A. I should think so.

Q. Did you retain L. Arnstein, or appoint him? A. Arnstein was retained.

Q. P. I. Garvey? A. Garvey was retained; he was there under the other administration.

Q. Do you know what Riley's business was or is? A. No, sir.

Q. Do you know what Arnstein's business is or was? A. No, sir.

Q. Do you know what Garvey's business is or was? A. No, sir.

Q. Was P. H. McKenna retained or appointed? A. Retained.

Q. Do you know what his business is or was? A. I do not.

Q. J. Brady? A. I do not know what his business was.

Q. Was he appointed or retained? A. He was retained.

Q. E. F. Starin? A. He was appointed.

Q. For whom did you appoint him? A. I think Mr. Croker.

Q. Do you know what his business is? A. No, sir.

Q. Do you know what his business was before you appointed him? A. No, sir.

Q. Did you, at the time you appointed him, know what his qualifications for a clerkship were? A. I had seen him; I think he is a pretty good clerk; he is a good clerk, so far as I know.

Q. Amschel? A. Amschel was appointed at the request of Mr. Croker.

Q. Did you know what his qualifications for a clerkship were before you appointed him; do you know what his qualifications are? A. I understand they are very good.

Q. Do you know what his business is or was prior to his appointment? A. No, sir.

Q. Did you ever ask with regard to any of these people that I have been reading the names of from the pay-roll of clerks for the preservation of public records as to what their business prior to their

appointment was? A. No, sir; I did not; they pretty much all came down from the other administration, and I assumed that they had given satisfaction.

Q. D. J. Connell? A. Mr. Connell is a personal appointment.

Q. Who did you appoint him for? A. Well, on account of Alderman Flinn.

Q. Alderman Flinn in the first district? A. Yes, sir.

Q. J. J. Kirk? A. Kirk, I think, came down from the former administration.

Q. Who is Kirk; any relation of Alderman Kirk? A. No, sir; no relation.

Q. Will you tell us why you need two indexers, Connell and Kirk being both indexers, in the work of the preservation of public records alone, particularly in view of the fact that during Mr. Reilly's time four index clerks were able to do all the current business of the office? A. Well, the reason that those index clerks are needed is in order to have the indexes prepared as quickly as possible and inserted in the place where the old book was.

Q. It takes two men to do it? A. I do not know as that is an increase over what my predecessor had.

Q. That is not the point; does it take two men to do it? A. I think it does from what I know.

Q. As a matter of fact, two men do it? A. Yes; but the two men are not working on the same book.

Q. I understand that they are not, of course, but could not one man do it? A. One man could do it by occasioning a great deal of delay.

Q. Do you suppose that the preservation of the public records involves a volume of business half as large as the entire current business of the office three years ago was? A. With reference to the public records, I shall explain how that is done.

Q. Explain it your own way? A. We are proceeding at the present under the order of July 12, 1889, an order of the Supreme Court made by Justice O'Brien on the recommendation of the former register, and on the appointment of members of the profession to investigate the recommendations of the register, and they reported, and on that report this order is made; now there are twenty-five books still, I think, left uncopied and in conformity with the order of July 12, 1889, so that as a matter of fact that work altogether depends upon the recommendation of the register in the first instance to the Supreme Court, the appointment of a commission by the Supreme Court and an examination by that commission, with a report after-



wards to the justice, and on that report the justice makes the order; I have made no request during my term yet.

Senator FASSETT.— That is the work to be done as laid out by the court?

The WITNESS.— Yes, sir.

Q. But the method of doing it, the court has nothing to do with?  
A. No, sir; the method of doing it is this, I understand it was settled at a meeting of the judges of the first department with reference to this work that five pages a day would be a day's work as far as the copying of mortgages, etc., were concerned, and that seven pages a day would be a day's work so far as copying the indexes are concerned; if a person does not copy five pages of mortgages in a day or does not copy seven pages of indexes in a day, he is not paid for the day's work.

Q. If he does copy five pages in the one case or seven pages in the other, then he is paid a hundred dollars a month? A. Yes, sir.

Q. These people are paid a hundred dollars a month for copying five pages a day in the one case and seven pages a day in the other case? A. It was under the arrangement of the judges of the first department.

Q. When was that arrangement made? A. I think within two years; I knew before I took office.

Q. Do you know who was the presiding judge at the General Term at that time? A. I did not say the General Term, I said the judges of the first department; Judge Van Brunt is the presiding justice.

Mr. IVINS.— Now, if the stenographer will please read my last question?

[The stenographer read the question, as follows:]

Q. Do you suppose that the preservation of the public records involves a volume of business half as large as the entire current business of the office three years ago was? A. I could not give any information upon that point for the reason — I have not assigned any reason — but for the reason that that is purely a matter of investigation by this commission, appointed by the judges of the first department; I have made an off-hand look at the number of mutilated books; of course, my recommendations would amount to nothing unless they were agreed to by one of the judges of the Supreme Court.

Senator FASSETT.— I do not think you comprehend Mr. Ivins' question. He wants to know whether, in your judgment, this work done last year in preserving the old records would amount to as much in the aggregate as the entire work of the office three years ago? A. I

could not say anything about it, because I don't know anything about it three years ago.

Q. Who appointed J. N. Lerscher? A. Lerscher was appointed by me.

Q. Who was he appointed for? A. Judge Mitchell.

Q. What was Lerscher's business before you appointed him? A. I think he was a law clerk.

Q. Judge Peter Mitchell? A. Yes, sir.

Q. Do you know whether he is a law clerk now or not? A. I know that he is not now.

Q. Do you know whether he does any other business than act as reader in this department? A. I do not know what he does after the office hours; I do not know anything about that.

Q. Who appointed J. O'Connor? A. I appointed J. O'Connor.

Q. Who did you appoint him for? A. I appointed him on the recommendation of some of the men in the first ward.

Q. Who were they? A. Some of the members of the committee; but you can say he is a personal appointment.

Q. What do you mean by personal appointment, as contradistinguished from any other appointment; you have used the expression "personal appointment" a number of times? A. I mean personal appointment is an appointment I make on my own motion without any recommendation from anybody except the recommendation of myself; and the other appointments that may be made would come by recommendation.

Q. There are two kinds of appointments, then, personal appointments and organization appointments? A. No; the distinction does not extend that far; they are all organization men.

Q. But some organization men are appointed by you on your own personal suggestion, and some are appointed by the suggestion of the organization, as such; is that it? A. That would be the mode of appointment, but they would be all organization men.

Q. Oh, yes; I understand that; but in some cases you let the organization select the men, and in other cases you select for the organization; is that it? A. No; I do not think that is the general rule; I have never adopted that; I have never set myself above my organization.

Q. Have you ever set your organization above yourself; A. No; I have not.

Q. How do you arrange that equation to keep it so nicely balanced? A. There isn't any arrangement about it at all.

Q. Who appointed L. P. Smith? A. Mr. Smith was there when I took charge.

Q. Who asked you to retain him? A. He was there when I took charge.

Q. B. F. Fitzpatrick, reader? A. Well, he was recommended, I suppose—he was there under Slevin, and I retained him; that is about the answer to that [referring to Smith]; now, the next one.

Q. B. F. Fitzpatrick; is he the Mr. Fitzpatrick we were talking about yesterday; the reader? A. Yes, sir.

Q. He is the son of Excise Commissioner Fitzpatrick, is he not? A. Yes; I inquired about that.

Q. Well, what have you found about it? A. Well, I understood that he was the son of Excise Commissioner Fitzpatrick; I have not had a chance to speak to Fitzpatrick personally about it; I had a conversation with his father last evening, and he told me that his son held a pardon from the Governor; that is about all I know about it.

Senator FASSETT.—What Governor—Governor Hill? A. I do not know whether it is Governor Hill or not; I understood that he would be here to-day, and that is the reason I did not make any inquiry about it.

Q. Do you understand that while he was a police officer he had killed a man and had been convicted? A. I did not go into that.

Senator AHEARN.—So far as that is concerned, the man has been tried and pardoned.

Mr. IVINS.—And convicted.

Senator AHEARN.—And suffered. And I don't think it is proper that that thing should be brought up. He has been pardoned.

Mr. IVINS.—Did you ask when he had been pardoned? A. No; I did not do that; I spoke to Mr. Fitzpatrick last evening that I understood that his son—

Senator AHEARN.—This man is trying to do what is right, and is doing what is right, and I don't think it is proper to bring that up.

By Mr. IVINS:

Q. E. K. Parris; did you appoint him? A. No, sir; he was in the office when I took charge.

Q. Did you retain him? A. Yes, sir.

Q. At whose request? A. There wasn't any direct request for him, but I understood that Judge Fallon or Judge White was interested in him; I understood so; I have not removed him.

Q. How many recording clerks at five cents per folio have you now at work or under the employment of the office? A. Well, I could not tell; of course, you know, Mr. Ivins, how that work is distributed.

Q. Will you send some one to find out how many are now employed and how many were employed in September and May? A. Yes; you understand that this is piece-work.

Q. Yes; I understand it is piece-work. A. So that one month there might be more than others.

Q. Have you not put a number of persons at work on this piece-work during the past few weeks who were not on it before? A. Well, not a number; no.

Q. Well, how many have you? A. Probably one or two.

Q. Only one or two? A. I think so.

Q. Are there not more than one or two persons at work on this piece-work now, who were not at work on piece-work in September? A. No; I think there are not over two or three; I don't remember any more.

Q. Can you remember who these three are? A. I think one young man's name is John Rice.

Q. Who did you put him to work for? A. I put him to work on the recommendation of Mr. Patrick Kerrens.

Q. Who is he? A. A member of the general committee, living down town.

Q. Who are the other two? A. That is the only one that I recall; there may not be three; I am not sure; I recall that one.

Q. Did you appoint all of these recording clerks, or did you find many of them at work before you went there? A. A great many of them had worked there when I took charge of the office.

Q. Homer Nelson was at work when you took charge of the office? A. Yes, sir.

Q. He seems to have done 1,114 folios in September; Charles Wache did 1,100 in September; was he at work when you went in the office? A. Yes, sir.

Q. Thomas McDevitt seems to have done 1,188 folios in September; George W. Houghton seems to have done 1,104 folios in September; was he at work when you were in the office? A. Yes, sir.

Q. John J. Guilfoyle, was he at work when you went in the office? A. No, sir.

Q. Guilfoyle seems to have done more work than anyone else; you appointed him; who did you appoint him for? A. I appointed him; he asked me if I could not do something for him, and I did it.

Q. What was his business? A. He was formerly in the dry goods business.

Q. Now, I have read to the committee four or five names of those  
[Senate, No. 80.]



who did the largest volume of work; Charles M. Boyd did 162 folios; did you appoint him? A. Yes, sir.

Q. Who did you appoint him for? A. Well, he is from the first district; I appointed him on the recommendation of someone in the organization.

Q. Hugh Brady, ninety-eight folios; did you appoint him? A. Yes; and the reason of that can be explained; that is, do you dwell upon the fact that the number of folios is small?

Q. No; I am simply taking the names of those whom I find to have done the smallest number of folios. A. For example in the Boyd and Brady case, they, no doubt, got their work — what month is that?

Q. This is September. A. They, no doubt, got their work in August and probably lapped over.

Q. What do you mean by got their work; you mean an allotment of work? A. The work was allotted to them, no doubt, in August and then they continued up until the pay-roll was made up.

Q. Do you make allotments of work to the same man — A. If you will pardon me, I will explain.

Q. Go ahead. A. Their work was allotted in August, and they wrote till the last day of August; their pay-roll would show in August what they did in that month, and then in September there would be sixty-eight folios left, and in that case that would appear on the pay-roll of September.

Q. That is, provided they got no further allotment of work? A. Yes, sir.

Q. But if they got a further allotment of work, that would also appear? A. Yes, sir.

Q. Who did you say you appointed Brady for? A. Well, Brady has been there sometime.

Q. Did you appoint Boylan? A. Boylan has been there some time.

Q. Did you appoint Barnett? A. Barnett has been there some time.

Q. Did you appoint Cashman? A. I think he was appointed on the recommendation of someone in the first district.

Q. Callahan; did you appoint him? A. I think so.

Q. On whose recommendation? A. I do not just recall.

Q. Cunningham? A. Cunningham is there.

Q. Did you appoint him? A. No, sir.

Q. Collins; did you appoint him? A. Collins was there.

Q. Did you appoint Cassidy? A. No, sir.

Q. Did you appoint Connelly? A. No, sir.

Q. Did you appoint Dunlap? A. Dunlap was there; yes, sir.

- Q. Did you appoint Dale? A. No, sir; he was there.
- Q. Did you appoint Donnelly? A. Yes, sir.
- Q. Who for? A. I think Senator Roesch.
- Q. Did you appoint Dodge? A. Yes, sir.
- Q. Who for? A. Martin B. Brown.
- Q. Martin B. Brown the public printer? A. Yes, sir.
- Q. Did you appoint Feis? A. No, sir.
- Q. Did you appoint Finnessey? A. No, sir.
- Q. Did you appoint Finnell? A. Yes, sir.
- Q. Who for? A. I don't recall just who.
- Q. Did you appoint Fitzgerald? A. Yes, sir.
- Q. Edward F. Fitzgerald? A. Yes, sir.
- Q. Who for? A. I appointed Fitzgerald for Tom Fitzgerald, over in the second district.
- Q. Did you appoint Flood? A. No, sir.
- Q. Did you appoint Gaffney? A. No, sir.
- Q. Guilfoyle held over? A. Guilfoyle I appointed.
- Q. Did you appoint Houghton? A. No, sir.
- Q. Did you appoint Griffin? A. No, sir.
- Q. Did you appoint A. J. Kirk? A. Yes, sir.
- Q. Who for? A. Well, he is a son of Alderman Kirk, but he is not there constantly; he is not there now.
- Q. Did you appoint Lavner? A. No, sir.
- Q. Did you appoint Leavy? A. No, sir.
- Q. Did you appoint McNulty? A. No, sir.
- Q. Did you appoint McDevitt? A. No, sir.
- Q. Did you appoint Murray? A. No, sir.
- Q. Moore? A. No, sir.
- Q. McFeigne? A. No, sir.
- Q. McDonald? A. No, sir.
- Q. McCanley? A. No, sir.
- Q. McKanna? A. No, sir.
- Q. McGraw? A. No, sir.
- Q. McLaughlin? A. Yes; McLaughlin.
- Q. Who for? A. I appointed McLaughlin on the recommendation of Mr. McLaughlin, his father, who is a friend of mine.
- Q. McGee? A. No, sir; he held over.
- Q. Edward J. Murray? A. No, sir.
- Q. Patrick Moore? A. No, sir.
- Q. Nelson? A. No, sir.
- Q. Nealon? A. No, sir.
- Q. Norton? A. Yes; I appointed Norton.

Q. Who for? A. On the recommendation of somebody in the first district; the committee.

Q. O'Callihan? A. No, sir.

Q. Francis C. Reilly? A. No, sir.

Q. Rodman? A. No, sir.

Q. Vincent? A. Yes; I appointed Vincent.

Q. For whom? A. I think, on the recommendation of Mr. Burke, from the twenty-third district.

Q. Watts? A. Watts I retained myself.

Q. McFall? A. No, sir.

Q. Now, so far as these men who were retained are concerned, on whose recommendation did you retain them, or at whose request? A. Well, they were there under the former administration, and I made no change.

Q. Did you retain them at the request of the organization or simply because of the fact that they were there? A. They were there, and for that reason I did not change.

Q. Did you make any inquiries as to their political antecedents before retaining them? A. I do not think that I did that, sir.

Q. Do you know now whether they are Tammany Hall men or not? A. Well, I think they are Tammany Hall men.

By Senator AHEARN:

Q. Mr. Register, have you ever appointed any person to a position without first inquiring as to his qualifications, either you or your deputy? A. No; we have not.

Q. You have always done that? A. Always; either Mr. Hanley or myself inquired as to the qualifications of the person; if I did not do it personally, I assume that he did.

Q. And he looks after the interest of the office in your absence? A. Yes, sir.

Q. And any person who is not there attending to his duties he would notify you to that effect? A. I assume he would, sir.

By Senator FASSETT:

Q. Mr. Fitzgerald, you receive a fixed salary? A. Yes, sir.

Q. So that your compensation does not depend upon any piece-work? A. No, sir.

Q. You are just there the official hours and get your official salary? A. Yes, sir.

Q. You have quite a corps of assistants who also receive fixed salaries? A. Yes, sir.

Q. This special department has been substantially under the control of your political organization for a number of years? A. I understand that to be so.

Q. So that you assume that the employes are largely acceptable to that organization? A. I should assume that, Senator.

Q. Being in political control, you assume that other things being equal it is perfectly justifiable to appoint members of that organization to office anywhere? A. Yes, sir.

Q. And you have acted on that assumption? A. Yes, sir.

Q. Now in the absence of complaint in your department, do you assume that each man is doing the duties for which he is paid? A. I should assume that, sir.

Q. And you administer the office on that basis, if I understand your testimony correctly? A. I administer the office not altogether on an assumption, but I devote nearly all my time to it.

Q. You administer your office on the theory that in the absence of complaint each one is doing his duty? A. Yes, sir; I think so.

Q. Now, will you tell us who would be apt to complain? A. Well, I suppose—of course you understand that the register's office, the chief business of the register's office is with the lawyers?

Q. Certainly. A. And it is really a lawyer's office, and I suppose that complaints would come from members of the bar if matters were not conducted as they thought would be proper.

Q. But the employes would not be very apt to complain of each other, would they? A. Well, as a general rule, may be not.

Q. They are members of the same political organization and generally personal friends, are they not? A. Well, I suppose they are political friends.

Q. They would not regard it as part of their duty to spy on each other and report to you? A. Well, that I could not say, Senator.

Q. Well, they do not do that way, do they? A. Not that I know of.

Q. In the absence of complaints from lawyers there would not be any complaints filed with you, would there? A. Well, there would be naturally complaints, of course, from my subordinates, Mr. Hanley, or those gentlemen who are supposed to perform their duties; I assume that they would make complaints to me.

Q. In accounting for the falling off of the income of the office, you attribute that largely to the title companies taking away the searching business, was that a large volume of business? A. Searching, as I understand it—and I have not very much knowledge about it, because we did not do much this year, but from information, I understand that



the chief volume of the business was searching; I guess this is so, is it not, Mr. Ivins.

Mr. IVINS.— Yes.

Q. Now, have you any system by which to determine whether each employe does each day a reasonable day's work? A. Well, there is not any exact system about it; I am free to say this, that if I knew of any employes who did not discharge their duties, I would relieve them.

Q. Of course, if your attention was called to the fact that any man habitually disregarded his work, you would discharge him? A. Undoubtedly.

Q. Have you any check so that you can tell, in the absence of complaint, whether each man did his duty? A. I rely on my subordinates to report.

Q. Do you know whether your subordinates have any such system? A. I think Mr. Hanley has some such system.

Q. Do you know whether he has or not? A. No; I do not, to my own knowledge.

Mr. IVINS.— Have you ever asked him to establish such a system?

The WITNESS.— No; I do not think I have, in so many words.

Senator AHEARN.— Does Mr. Hanley supervise the work?

The WITNESS.— Yes, sir.

Senator AHEARN.— Then he knows all about it, does he not?

The WITNESS.— Yes, sir.

Q. Of course, if the work is done, the lawyers do not care whether it takes fifty men to do it or 100 men to do it? A. Well, I do not know about that.

Q. It does not make any difference to the lawyers how many men you employ, does it? A. I could not say; I think if the work was not done properly they would make an objection.

Q. The only power interested in knowing whether you are getting out of each one of your employes a full day's work is the power that pays the bills, is it not? A. The city.

Q. The city; now have you made an effort to devise any method by which you could reduce the cost of administering the office? A. I think this with reference to the office, that after the next year when this block system is put in vogue or placed in operation, the expenses of the office will be considerably reduced; for example, if all the searching of the city should drift to the title companies, that department in the register's office could be absolutely closed up, and the situation to-day in New York real estate in relation to searching is this, the title companies offer an additional inducement

in the way of insuring the title; for example, they search the title and pass upon it, and after passing the title, they insure it.

Q. We understand all about that? A. If that were done, if they could get all the searches, of course, we would need no corps of searchers.

Q. But the amount of searches done in your office in 1887, was four times as much as it is to-day, and yet you have five-sevenths of the amount of help; you only reduced your help two-sevenths. A. I did not reduce it at all, the board of estimate would have charge of that.

Q. And for next year, in your provisional estimate, you ask for \$19,000 for that work? A. Nineteen thousand dollars have only been asked for provisionally; that does not say that we will get it.

Q. How much do you expect to be allowed? A. That I could not tell; that would be a pure discussion for the board of estimate; the reason for making that application was simply this, that the board of estimate and apportionment pass upon it and take the responsibility, if the searching is not properly done for lack of force; of course, this provisional estimate is not final or binding.

Q. Suppose you had an opportunity of getting this work done for \$6,000 a year, would you avail yourself of it? A. I should not hesitate to say to the board of estimate that it could be done for that.

Senator FASSETT.—I have a communication here from Charles Blauvelt, 745 West End avenue, saying that he will enter<sup>e</sup> into a contract with the city of New York, or with the register of the city and county of New York, to make all searches that he may be required to make for \$6,000 a year, and that he will give a bond in the sum of \$20,000, with two sufficient sureties, in sums of \$20,000 each. For this amount he will do all the searching for the next year.

The WITNESS.—If Mr. Blauvelt can do that, I will very cheerfully recommend the board of estimate and apportionment to avail themselves of it.

Q. If Mr. Blauvelt can do it for \$6,000 a year, is there any reason on earth why your searchers could not do it for the same sum? A. That I am not prepared to state.

Q. You have estimated the cost at about three times that amount? A. That estimate is not final; the estimate is just what the name signifies; it is a provisional estimate to be discussed and passed upon by the board of estimate and apportionment.

Q. Well, they did allow you for this year eight searchers? A. They did allow me for this year eight searchers.

Q. At \$2,500 apiece? A. Yes, sir.

Q. Six at \$2,500, and two at \$2,000? A. Yes, sir.

Mr. IVINS.—In order that this may appear correctly on the minutes, this letter should be inserted right here:

“NEW YORK, October 15, 1890.

*To the Honorable the Committee on Cities of the State of New York :*

GENTLEMEN.—I attended the sitting of the subcommittee of your honorable committee yesterday, and heard the testimony of the register of the city and county of New York in regard to the provisional estimate submitted by him to the board of estimate and apportionment of the amount required to pay the salaries, etc., of searchers in his office during the ensuing year (1891), and do respectfully make the following offer: I will enter into a contract with the city of New York, or with the register of the city and county of New York, to make all searches that he may be required, as such register, to make during the year 1891 (the same service as is now performed by his corps of searchers) for the sum of \$6,000, and give a bond in the sum of \$20,000, with two sufficient sureties in sums of \$20,000 each (the amount of his official bond), for the faithful and proper performance of the work within the time and in the manner prescribed by law. I have been employed in the register's office twenty-five years.

Respectfully.

CHARLES BLAUVELT,

745 West End avenue, New York city.”

Q. Your official bond is \$20,000, is it? A. My official bond is \$20,000, two bondsmen.

Q. So that the bond he proposes to give is identical with your bond? A. Yes, sir.

Q. Do you know who Mr. Blauvelt is? A. I have no personal acquaintance with Mr. Blauvelt, but I know that he is a very estimable gentleman.

Q. Do you know that he has had experience in the office? A. I do; satisfaction clerk.

By Senator FASSETT:

Q. I want to ask one question; Mr. Fitzgerald, if you had this office and could keep for your own all the fees that are now coming in, do you not think you could get the work done for a good deal less money than you had it done for last year? A. As I remarked before, a reduction might be made in the searching department.

Q. That admits of an answer, yes or no? A. It admits of an answer with an explanation; now, there is no doubt, I do not think there is

any dispute about it, that the papers of New York county are increasing as the city grows; as the population grows, naturally there are more transactions in real estate, and I think, except in the searchers' department —

Q. Do you think this department has been administered last year as economically as possible outside of the searchers' department? A. I think it has.

Q. You do not think you could have dispensed with any services that would have saved a dollar? A. I can not say now.

Q. You could not have dispensed with four of those custodians? A. In the view of the law there really ought to be a custodian at the elbow of each person who opens a book in the first place to see, that alterations are not made.

Q. I was not asking about the law; I am asking about the practical administration? A. I could not say.

Q. You could not dispense with a single custodian clerk? A. I might.

Q. If you had to pay the bills, would you not have made an effort? A. I do not think I would make any more effort.

Q. It does not make a personal difference to you? A. Yes, sir.

Q. In what direction? A. I think the money should not be paid out hap-hazard.

Q. You do not want to have the reputation of having squandered the city's money? A. No, sir.

Q. But financially it makes no difference whether you pay a thousand dollars or a hundred thousand dollars? A. We depend on the board of estimate and apportionment.

Q. Whatever you can get from the board of estimate and apportionment you feel justified in making the expenditures, is that so? A. No; I can not say that.

Q. The board of estimate and apportionment has to depend on your estimate? A. Somewhat.

By Mr. IVINS:.

Q. You say you travel on the lines of the board of estimate? A. The board of estimate lays down the line of appropriation for the office.

Q. You say you travel on the lines of the board of estimate and apportionment so far as the appropriation is concerned? A. Not altogether so; I believe if an expense could be saved to the city it is my duty to do it.



Q. Now, whose lines do the board of estimate travel on, yours, do they not? A. They have not as yet.

Q. They travel on the lines of the register, be he whomsoever he may? A. Yes, sir.

Q. And every point of departure is your own estimate of running your department? A. As you know they do not take the absolute say-so in regard to the register's office.

Q. They never insist that you should take more than you ask for, do they? A. No; it is quite the reverse.

Q. Consequently, it is true that neither point of departure is their estimate, on which they usually make a reduction? A. Well, I do not know about that, because I have not appeared before them.

MR. IVINS.—Now, as bearing on this, I want to have entered at this point in the record the provisional estimate for the year 1887, which was an estimate made by Mr. Reilly who was the last of the feed registers, and which estimate conforms virtually with the statement which he had submitted to the State officers as to the receipts and expenditures of his office for the year 1886, which is as follows: Salaries, register's office, salary of register, \$12,000; salaries of deputy assistant, deputy searchers, bookkeepers, examining clerks, recording clerks, reader, custodian, watchman, messengers, etc., \$88,000; aggregate \$100,000; that was the provisional estimate for the year 1887.

SENATOR FASSETT.—That is to say, Mr. Reilly in going out made a provisional estimate for the succeeding year when this law went into effect?

MR. IVINS.—Yes; and that called for \$100,000. However, the appropriation as made was altered by adding the item of contingencies, \$1,000, and the final appropriation was \$101,000; that was the appropriation for the year 1887.

Q. Now, have you ever heard that the office was not adequately, properly and well administered during the year 1887, the first year of Mr. Slevin's term? A. I never heard anything about it.

Q. Your provisional estimate is \$153,000? A. Yes, sir.

Q. What have you included in your provisional estimate, if anything, for the supplies of the office? A. Well, by supplies do you mean libers?

Q. Yes; I mean the total supplies? A. Do you mean the libers and ink and stationery, and all that?

Q. I mean the libers, ink and stationery, and everything. A. We do not include anything for that, because we get that from the board of city record.

Q. How does the board of city record make its estimate for your particular wants? A. The board of city record makes its estimates on our recommendations, and I have not recommended it this year.

Q. So that there will have to be added as affecting your expenditure in the office whatever sum you put in for supplies through the board of city record? A. I do not understand that that is the rule; I understood this, that the board of estimate appropriates so much money to the board of city record.

Senator FASSETT.—Yes; but you haven't any provisional estimates for supplies?

The WITNESS.—No; the way that is done is, we recommend to the board of city record what we will need in the way of books, stationery, ink, etc.

Q. There will be an expenditure through your office of an additional amount for supplies? A. Yes, sir.

Q. Have you any idea in round figures what that might be? A. I have not taken that up.

Q. What was it the last year? A. I do not know, because it was under Slevin's recommendation that the appropriation was made,

Q. In any case, that will have to be added to what they appropriate on your estimate of \$153,000? A. Yes, sir.

Q. Added to the expenditure of your office? A. Yes, sir.

Senator FASSETT.—Do the board of city record send over your supplies without any requisition from you?

The WITNESS.—No, sir; I have not made it as yet.

Mr. IVINS.—I think I can explain that. The board of city record makes up its provisional estimate in the same that the other departments make up theirs, but the board of city record is an intermediate board. Before it makes up its estimate they have to find out what the other departments will need, consequently, so far as supplies are concerned, it is an appropriation made to the register's office indirectly, through the board of city record; as I understand it, they will file before those estimates are made up what they need in the way of supplies from that board, and that board will include it in the provisional estimate.

The WITNESS.—Yes, sir.

Senator FASSETT.—But that will not tell us what his supplies amount to this past year.

The WITNESS.—Outside of the libers it is very trivial.

Mr. IVINS.—We can not tell, because those things do not appear in his books.

Senator FASSETT.—But his department requisitions must be made, are they not, on the board of city record?

The WITNESS.—Yes, sir; Mr. Hanley makes requisitions from time to time.

By Mr. IVINS:

Q. Those requisitions should show what supplies were used but not what the cost of the supplies were? A. Yes, sir.

Q. This little item of contingencies, \$500, what would that cover?

A. I do not know; it was put on the other; I understood this; for example, in each department some person in office sends a copy of the bills down, and we have on file in our office a copy of all the bills.

Q. You have a searcher named John Boyle; have you not? A. Yes, sir.

Q. You raised his salary from \$2,000 to \$2,500 in March of this year; did you not? A. Yes, sir.

Q. Why did you do that? A. Well, in order to equalize the salaries of the searchers.

Q. Did you have any particular interest in John Boyle? A. No, sir; beyond the recommendation of the eighteenth district.

Q. That is Mr. Croker's district; is it? A. I do not know as it is called Croker's district; I think Seary or Keating.

Q. Then you had the interest that was incident to the fact that he was recommended by the eighteenth district? A. I knew Mr. Boyle was a good man.

Q. Was he worth any more in March than he was in February? A. No; I think his salary should have been graduated with the others from what they said about his experience and care; of course, you understand that I am responsible for any errors; that is, I am responsible after some litigation with the city.

Q. You do not want to say that you are responsible; do you? A. I think, if it was a feed office, I should be responsible.

Q. You do not want to say that you think you are responsible? A. Every searcher is under bonds to me, for the faithful performance of his duty, in order to cover any mistake he may make.

Q. Then your liability is fixed by your own bond? A. Yes, sir.

Q. Who is Robert A. White? A. Mr. White is, I think, an examiner and was there when I took office.

Q. Who did you retain Robert A. White for? A. Well, I do not know as there was any special request made as to the retention of White; I understood that he was a friend of Mr. Cockran.

Q. Do you know how long Mr. Robert A. White has been in this country? A. I do not know anything about Mr. White.

Q. Do you know whether he is a citizen? A. I do not know.

Q. Do you know whether he is a relative of Mr. Cockran directly or indirectly? A. I do not know even that; all I know is that I understood that he was a friend of Mr. Cockran.

Q. Has not Mr. White been shifted from one place to another in the office since you have been there? A. Yes; his salary was increased.

Q. Was his salary increased because complaint had been made of him? A. No; there was no complaint made of him.

Q. Did not Mr. Cockran go to your office to see you about Mr. White about that time? A. No, sir.

Q. Did not you talk with Mr. Cockran prior to the increase of his salary? A. No, sir.

Q. Did no one talk to you in behalf of Mr. Cockran, prior to the increase in Mr. White's salary? A. I do not recall it.

Q. What had Mr. White been doing prior to the increase of his salary? A. I think Mr. White was certified copy clerk.

Q. Do you know how he was performing his duties? A. Well, not specially.

Q. Do you know whether there was any complaint in or about the office because of the way in which he is performing his duties? A. No; I did not hear of any.

Q. Was it not a fact that he was thereafter sent upstairs and put on other work? A. Yes; I sent him upstairs to examine, and for this reason; I think that Mr. Cockran said that White's health was not good, if I remember right, and that he would like it if he was out on other work; I think so; I am not certain; Mr. Cockran would know that.

Q. Is certified copy clerk's work as difficult as the examiner's work? A. I think that they are both exact positions.

Senator FASSETT.—Both positions requiring exactness?

The WITNESS.—Yes, sir.

Q. Did not Mr. White get an increase of salary when he went upstairs? A. Yes, sir; his salary was made \$1,300.

Q. Instead of what? A. Instead of \$1,200.

Q. What did he get that additional \$100 for? A. There wasn't any special reason any more than he was made chief examiner.

Q. His health was bad, and he was sent upstairs; his salary was increased? A. I did not say that; you spoke of conversations with Mr. Cockran; the only conversation was that I think Mr. Cockran



said that White's health was not very good, but that was not any reason for my action.

Q. Does Mr. White do any more work now for the \$1,300, than he did for \$1,200 before? A. Well, I could not say that, because it is different work; I do not think there is any relative comparison between them.

Q. Did you ever hear that a complaint had been made by any member of the bar, of the manner in which Mr. White performed his duties? A. I did not; it was never brought to my notice.

Senator FASSETT.—Can complaints be made against men and still not be brought to your notice?

The WITNESS.—Any complaint made should be made to me directly, and any complaint made to me directly, I have either answered personally, or have written a personal note.

Q. You testified that when you took hold of the business, the record of a discharge of mortgages was very far behind? A. Satisfaction pieces; yes, sir.

Q. Is not the work just as far behind to-day in that department? A. I am not sure; I do not think so.

Q. What steps have you taken to find out whether it is as far behind, or further behind, or whether it has been caught up with? A. I think I have a memorandum here [looking among papers]; no; I have not any information as to the relative position, but I understood it was considerably reduced; I have been so informed; I have not the memorandum here, but I will send for it; they are considerably behind, you know.

Q. Is it not the fact that there are several thousand satisfactions of mortgages in the office not now recorded? A. I don't know whether that is so, but I do know this, that they are not any further behind to-day than they were last year or the year before or the year before that.

Senator FASSETT.—That is the question he asked.

Q. That is just the question. A. They are not any further behind; I think we have gained; I think there is a gain.

Q. You spoke of the fact, however, that the work was very far behind, and that was the reason why you had to put certain clerks at work on it? A. Yes, sir; I think the work was considerably behind; I forget how many months.

Q. Now, as matter of fact, it is still considerably behind? A. Yes; it is pretty hard to keep that work up.

Q. Now, without in any way suggesting that you are more responsible than any other register has been in the premises, do you know

of any reason why your work should not be kept up, or is the work such that it is impossible to keep it up? A. The work could be pretty well kept up if you had quite a number of clerks at it; you understand the satisfaction pieces take the very same course that the deeds and mortgages and all other papers that are recorded at length.

Q. Certainly; will the staff which you have asked for in your estimates be large enough and be able to bring that work down to date? A. No; I think not.

Q. Well, is there any reason why you should not ask for a sufficiently large staff to bring the work down to date? A. Well, in the request — in the provisional estimate, this item, “recording clerks at five cents per folio, and clerks on discharge of mortgages,” it was put in for the purpose of allowing me some latitude to bring that work up.

Q. Now, that is just what I want to get; will you have the latitude under that estimate with which to bring that work up? A. I think so; I recall it distinctly now; it was put up in that fashion for the purpose of giving me latitude.

By Senator FASSETT:

Q. In the \$40,000 item? A. Yes; that includes the recording of papers to be presented.

Q. Hadn't you better see if you can't make a contract to allow Blauvelt to run the whole office? A. That is a matter that might be addressed to the board of estimate; I haven't any authority for that.

By Mr. IVINS:

Q. Within what time is a deed or mortgage now returned to the party? A. I think probably two months and a half, and the reason of that is this, we have had it in my term down to six weeks; now, the reason that the return of the papers so far behind, is this, that we had an unusual heavy month for real estate transactions during the months of May, June, July and part of August; the papers were in number very great indeed, and, for that reason, we have not been able to get out those papers as readily, with the same despatch as they were gotten out at the commencement of my term; I had the papers returned within six weeks at one time.

Q. You have considerable to do, from time to time, with these title companies, do you not? A. Yes, sir; I never had anything to do with them; you mean personally?

Q. They have a great many men employed in your office, have they not? A. No, sir; they haven't, that I know of.

Q. Are not a great many of their clerks in your office pretty continually? A. Well, with reference to the title companies it is this:

That there are some men who go in there and overlook the records, permitted to look at them, but so far as any relations that I have, I have none whatever with them.

Q. Do you know who the managing man of the German-American Title Comnpay is? A. I do not, sir.

Q. Do you know who the managing man of the Lawyers' Title Company is? A. I understood Mr. David B. Ogden.

Q. Do you know who the managing man of the third — what is the name of it? A. The Title Guaranty and Trust Company, I think.

Q. The Title Guaranty and Trust Company? A. No; I do not; I think one of the officers is Murray — Kelsey — I don't know.

By Senator FASSETT:

Q. Is not Mr. Olmstead an officer? A. No; Mr. Dwight Olmstead, do you mean?

Q. You spoke of him so many times — A. Oh, no; Mr. Dwight Olmstead is not; he is engaged in this land reform; he has not any interest in the title companies that I know of.

Recess until 2.30 P. M.

JAMES A. HANLEY, being called and sworn, testified as follows:

By Mr. IVINS:

Q. What is your address, Mr. Hanley? A. Two hundred and forty-five East Thirteenth street.

Q. You are at present deputy register? A. Yes, sir.

Q. How long have you been deputy register? A. I have been deputy register since the first of January, under Mr. Fitzgerald; I was deputy register prior to that under Mr. Slevin, from the 1st of June, 1889, to the end of this term, thirty-first of December.

Q. Were you in the office prior to the 1st of June, 1889? A. Yes, sir.

Q. As what? A. As a searcher from April, 1887.

Q. Then you first went into the office about four months after Mr. Slevin went into it? A. No, sir; I went there on the 1st of January, 1884, under Mr. Reilly.

Q. And what office did you hold under Mr. Reilly? A. I was there at first as kind of secretary to Mr. Reilly; looked after his personal accounts, the checks and such things, drawing of checks and keeping his accounts, banking his money.

By Senator FASSETT:

Q. Received the fees? A. No, sir; simply deposited them and keep the books for them; kept his private check book.

By Mr. IVINS:

Q. Will you describe to the committee your duties as deputy register? A. Well, my duties of deputy register consists of receiving all papers which are offered for record, examining them as to the names of the parties, the proper execution and acknowledgment, and, in cases where they have been executed elsewhere; certification by county clerk or otherwise; I estimate the number of folios in the paper, marking the folios on the outside of the paper; the entering the time of receipt of the paper; the signing certificates to papers and satisfaction, and receiving the fees for satisfaction pieces which have been examined by the satisfaction clerk; receiving chattel mortgages and entering the time of receipt on them, and receiving fees also for them; receiving the fees for searches and signing the certificate to them — a general supervision.

Q. You receive all the moneys? A. Yes, sir; either myself or Mr. Fitzgerald, the assistant deputy.

Q. What does the assistant deputy do? A. His duties are somewhat similar to what mine are; he examines the paper in the same way; sometimes I examine the papers and he receives the fees, and other times he may examine the papers and I receive the fees; make change, and he signs papers; I am engaged in examining papers which are there for record.

Q. You and he are both there continuously throughout the entire day? A. With the exception of such time as we are absent to lunch.

Q. Are you responsible for the work of the general staff of the office? A. I believe I am responsible to the register for the proper conduct of each man in the office, and report to him any complaint that may be made to me, and anything that I may discover is not — that ought to be rectified.

Q. What is the system of the office with regard to the means of determining the attendance of the other clerks in the office, and the manner in which they respectively perform their duties? A. Well, so far as those behind the desks in the main office are concerned, I look out for them myself; in the index room Mr. Murphy is in charge of the index clerks, and I usually make a tour of the building every morning and ascertain from the heads of the different departments; Mr. Murphy, for instance, has charge of the index clerks and keeps up their work; Mr. Moore has charge of the custodians; Mr. Smith of the examination of papers and the recording of papers, and Mr. Bostwick, seeing that each clerk is there, and gets the papers and that they are properly returned to him after they have finished recording them in the liber.



Q. Do you keep any time-book in the office to show when the men come and when they leave? A. No, sir.

Q. Have you any means for testing the amount of time that is given by each of the subordinates in the performance of his duties? A. No official method other than personal supervision.

Q. How is your office arranged; you are in a room by yourself; cut off from the other clerks, are you? A. No, sir; they all pass by my desk as they come in in the morning, and as they go out in the afternoon.

Q. So that no man can either come in or go out without passing your desk? A. No, sir; nor leave the office; only one door; only one means of egress or ingress.

Q. You have nine custodians there? A. Yes, sir.

Q. Whereas, during Mr. Reilly's term you had no so-called custodians? A. Yes, sir.

Q. You were in the office during Mr. Reilly's term, were you not? A. Yes, sir.

Q. Who performed the service during that time that is now performed by the custodians? A. At that time one custodian had charge of the upper floor; there was a messenger, map clerk, who looked out for matters on the lower floor; we had no third floor in use at that time; it was found when books were subpoenaed and when we were required to produce books on subpoena, that either the custodian had to leave, or he had to employ somebody else to do it; the fees which were paid for delivery of books at that time went to the employes of the office who delivered the books; Mr. Reilly received none himself; whereas, now we enter all those fees in the account book, and they are turned over to the city treasurer, and the custodian who did deliver the book—who went to court with the books—was obliged to take one of the tally clerks, as they are called, or recording clerks, officially, those who worked from time to time and were not engaged there exercised the supervision during his absence or would go to court for him.

Q. They always performed that duty quite satisfactorily, did they not? A. No, sir; they did not; particularly in the index rooms; it was found that it was impossible for one man to look out for the books of the index rooms, and also in the record rooms; the books were all arranged there, the grantors and grantees and mortgagors and mortgagees; if you or some other lawyer went in there looking for a book sometimes you would find A-No. 1 for 1869 and B-No. 2, 1867, or 1866, placed side by side, and you would have to go searching through the room to find the book you wanted; whereas, now the

custodians are there, they hand the books to the lawyers and see that they are replaced in their proper places and all the books are kept in order on the shelves; you go there and in a moment's notice select the book you want.

Q. Did that use to be a subject of complaint on the part of the lawyers? A. Yes, sir.

Q. It takes nine custodians now, does it, to do that work which used to be done in the manner in which you describe? A. Yes, sir; there is one man in the conveyance index room, another man in the mortgage index room, a man looks after the mortgage libers on the second floor, a man looks after the conveyance libers on the second floor, a man looks after the 800 libers on the top floor, and men who look after the mortgage indexes on the ground floor and the mortgage libers on the ground floor.

Q. How much time does Hynes spend in the office? A. Well, I could not state exactly how much time he spends there; he is there, to the best of my knowledge and belief, from 9 till 4.

Q. How much time does Mendelsohn spend in the office? A. Mendelsohn is there during the same period; sometimes he is away, goes out to lunch, goes out to court; in the afternoons he has been there as late as 7 or 8 o'clock assisting Young in marking off certificates of satisfaction.

Q. How much time does Mr. Gilhooly spend there? A. He is there same as the others are.

Q. Do you know a person named Valentine? A. I know a person named Valentine; yes, sir.

Q. Was there a clerk in the office named Valentine, sometime ago? A. A man called there who was to be employed in the office; sent there on probation, Valentine; I don't know whether it is the same party you mean or not.

Q. Do you know J. B. Kiernan? A. Yes, sir.

Q. Do you know whether, at the time that Kiernan was taken into the register's office, Valentine went from the register's office to the office of the commissioner of jurors? A. I believe he did; yes, sir.

Q. Do you know whether Valentine is now in the office of commissioner of jurors? A. I have not heard that he has been discharged.

Q. How much time does Gilhooly spend in the office? A. That is the question same as I answered before; that he is there, to the best of my knowledge and belief, all the time from 9 o'clock till 4, in the index-room to which he is detailed.

Q. What is the best of your knowledge and belief; do you actually see these men there during that time? A. I see them coming in and

going out; I do not see them all the time, because it is impossible for me to leave the desk; I have to trust to the fact that they are there all the time, and that no complaints are made, and my visits from time to time to those different rooms; I assume the books are in their proper places, and I assume the custodians are attending to their books carefully.

Q. Is the volume of business of recording papers materially larger than it was during the last year of Mr. Reilly's term? A. Yes, sir.

Q. How much larger, do you suppose, in the aggregate? A. I think I have the figure here; it is about 5,000 papers—and more have been recorded than were recorded in 1889—than there were in 1886, and the present rate at which the papers have been received up to date we will have over 40,000 papers this year as compared with 35,169 in 1886.

By Senator FASSETT:

Q. What is that, 40,000 this year as compared to the same class of papers in 1886? A. Yes, sir.

Q. How many in 1886—thirty-five? A. Over 35,000; 35,169 in 1886.

Mr. IVINS.—Shows an increase of twelve and a half per cent.

Senator FASSETT.—One-seventh; a little over twelve and a half per cent; fourteen per cent.

The WITNESS.—An increase of 12,000 over the first year of Mr. Reilly's term; that was the first year I was in the office.

By Mr. IVINS:

Q. Who was in the habit of certifying the rolls of your office for the copying of ancient records during the years 1884, 1885 and 1886? A. That was Mr. Reilly's term?

Q. Yes. A. Do you mean the clerk who had charge of that department; the chief clerk, examining?

Q. No; I mean the judge. A. I don't remember, but I know that Judge Donohue signed some; I don't remember—

Q. Do you recollect of any judge other than Judge Donohue ever having signed and certified any of those pay-rolls for the work done in copying ancient records? A. I think that Judge Andrews signed some of them, but I am not positive; I would not state that positively.

By Senator FASSETT:

Q. What becomes of those certificates of the judges? A. Which do you mean; those that are appended to the pay-rolls?

Q. Yes. A. All on file with the pay-roll in the comptroller's office.

Q. What becomes of those that certify to the necessity of the work?

A. Those are filed with the register.

Q. At that time those were merely formal, taken in accordance with the statute? A. They were certified to by the judge in the same manner, and other than that the register did not formulate the petition in the legal verbiage in which it has since been handed to the court.

By Mr. IVINS:

Q. After the expiration of Judge Donohue's term, who certified those rolls? A. I can not state about that, because I did not have anything to do with that part of it until last June, because I was a searcher in the office; had nothing to do with that.

Q. Until June of this present year? A. June, in 1889; I was not deputy under Slevin until June, 1889.

Q. You have been deputy since June, 1889? A. Yes, sir; June first.

Q. Who signed and certified the first roll after you became deputy? A. Judge O'Brien, I think.

By Senator FASSETT:

Q. Morgan J.? A. Yes, sir.

By Mr. IVINS:

Q. Then who certified the rolls from that time? A. Judge O'Brien certified some, Judge Andrews certified some, Judge Van Brunt certified some.

Q. Are you sure that Judge Van Brunt certified some? A. Yes, sir.

By Senator FASSETT:

Q. Since 1889? A. Since I have been deputy under Mr. Slevin.

By Mr. IVINS:

Q. Did you ever ask Judge Barrett to certify any? A. Yes, sir.

Q. Did he certify any? A. No, sir.

Q. Did he refuse to certify them? A. He didn't refuse to certify them, but he said he was the only judge sitting in court at the time, and that he could not certify them without going over there and making a careful examination of the work, and he didn't have the opportunity of doing that.

Q. Did you take the books to him? A. No, sir.

Q. Did any one take the books to him? A. No, sir; we offered to bring them over, but he didn't want to go on with the work; he said he preferred that some judge who had been familiar with that work would do it instead of himself.



Q. Were any ever certified after Judge Barrett refused to certify?  
A. Yes, sir.

Q. By whom? A. By Judge Van Brunt, I think.

Q. Are you sure of it? A. I am not sure of it; I can tell on examination of the comptroller's office, from the roll; but I think Judge Van Brunt signed after that, after we had had — well, Mr. Reilly was county clerk and Surrogate Ransom and myself.

Senator FASSETT.—How would it be to have this witness look that up?

Mr. IVINS.—Yes; we will have to do that.

The WITNESS.—The rolls are all on file in the comptroller's office. We had a consultation with Judge Van Brunt, Judge Barrett and Judge O'Brien, I think, in the library of the Supreme Court.

Q. When was that? A. Sometime last year; I do not exactly remember when it was; I think it was around October; September or October.

Q. That was prior to the passage of the act of this past year which dispensed with the certificate, was it not? A. Yes, sir.

Q. And was not the passage of that act incident to that consultation? A. I believe it was; yes, sir.

Q. So that the judges now no longer have to certify? A. They certify to the necessity for the work.

Q. But they do not certify to the correctness of the bill? A. Don't certify to the monthly pay-roll.

Q. And that bill making that change was incident to this conference between the judges, was it? A. Yes, sir; I believe it was.

Q. Was that bill drawn on their suggestion or on the suggestion of the register? A. I don't know whose suggestion it was drawn on.

Q. Do you know who introduced the bill? A. Mr. O'Hara, I believe.

Q. Who is Mr. O'Hara? A. He was Member of Assembly from the Eighteenth Assembly district.

Q. Did Judge O'Brien at any time refuse to certify? A. He did not refuse to certify, but I think one month he said that he would prefer to wait until the matter had been officially determined by Judge Van Brunt and the associate judges as to what method should be pursued in paying the clerks engaged in that work as different from what it had been from the passage of the act in 1883.

Q. Did any judge, other than Judge Barrett, ever refuse to certify? A. I think at one time Judge Lawrence, who was sitting in chambers, delegated Judge O'Brien to make the examination and certify the work for him.

Q. Is it not the fact that that bill was passed because it was found that the judges refused to certify? A. I could not say, sir.

Q. Did you ever have any talk with the judges about it; about the certification?

Senator FASSETT.—Well, ask that question in another form, was the bill passed until after the judges had refused?

The WITNESS.—The judges never refused.

Q. Well, they neglected to certify them? A. They expressed a desire to be relieved of the responsibility and the bother of coming over to the register's office and making an examination.

Q. Who suggested that bill? A. I don't know, sir.

Q. Don't know? A. No, sir.

Q. Was it not the result of this conference of judges? A. I believe it was.

Q. What ground did they give for suggesting such legislation? A. That they were so busy engaged in their duties here in the Supreme Court it was impossible for them to go to the register's, surrogate's and county clerk's offices every month, and make an examination of the work of the clerks.

Q. Do you know Robert A. White? A. Yes, sir.

Q. How long has he been in the office? A. I don't know how long he has been there; he was there when I was appointed deputy by Mr. Slevin, and had been under Mr. Slevin.

Q. Was he there before you were appointed deputy by Mr. Slevin? A. I think he was; yes, sir.

Q. Do you remember when he came there? A. I do not; no, sir.

Q. Do the representatives of the title companies use the office very much in making their searches? A. Yes, sir.

Q. How many men are there, as a rule, in the office, from the title companies? A. I do not know, sir, but I think that there are thirty, forty and sometimes fifty or sixty there.

Q. Do you remember that at one time an application was made by the title companies for a mandamus to compel the register to allow more than three employes of the title companies to occupy desks in the office at one time? A. I remember there was such a proceeding; yes, sir.

Q. You remember that that mandamus was denied by the General Term and the General Term was sustained by the Court of Appeals in refusing it? A. I do not remember that; I didn't know it was carried to the Court of Appeals.

Q. Now, as a matter of fact, the title companies have more than three employes at a time in your office, have they not? A. Yes, sir; my impression is that the General Term instructed Mr. Reilly, who was register, to admit the title company, the representatives of the

title company there; he endeavored to keep some of them out and they claimed that they were entitled to more, and my impression is that the decision was against Mr. Reilly; I think the case is reported somewhere in one of the reports of the General Term.

Mr. IVINS.—The case will be found in the ninety-ninth of New York Reports, in its final form.

The WITNESS.—I didn't know there was any decision of the Court of Appeals.

Senator FASSETT.—That is the Court of Appeals decision?

Mr. IVINS.—Yes; and that refers to the volume of General Term reports in which it is found.

Q. These clerks of the title companies occupy a room which is used practically exclusively for their own purpose, do they not? A. No, sir.

Q. Was not a large room fitted up for the use of the clerks of the title company? A. At what time?

Q. Oh, sometime within the past year? A. No, sir.

Q. Eighteen months? A. No, sir.

Q. Was a room never fitted up for the use of the clerks of the title company? A. I don't think there was a room; I think at the time that decision was rendered that some representatives of the title company were allowed to make examinations on the top floor of the building, in order to get them out of the way of the lawyers; there had been so many of them there within the last few months that complaints had been made to the register that there was not an opportunity for the lawyers to make examinations.

Q. Was there not a room fitted up on the top floor for them to use? A. I don't know as it was fitted up in any way; they were allowed to go there and make examinations and take books up.

Q. Were not desks and chairs, etc., put in there? A. Yes, sir.

Q. Who put those in? A. I do not know; sir.

Q. Did the register put them in? A. No, sir; I do not think he did.

Q. Title companies put them in? A. I think they did.

Q. By what right did the title companies, so far as you know, take possession of a room belonging to the city, to put their property in it? A. The room wasn't used for any purpose at all; simply storage room and nothing up there but a lot of old ticklers and index books, that had been used some thirty or forty years ago, and my impression is that the advice of the register's counsel was that the best way to do was to let some of them go up there and they would be out of the way; wouldn't be any complaints made to him.

Q. Who was the register's counsel? A. I think he was Mr. Mahan.

Q. How does he spell his name? A. M-a-h-a-n.

Q. That is not the corporation counsel? A. No, sir; this was under the fee system, under Mr. Reilly.

Q. Was that room fitted up under Mr. Reilly, during Mr. Reilly's term? A. Yes, sir.

By Senator FASSETT:

Q. Were these title companies doing so much business under Mr. Reilly that they had to have a room for their purposes? A. They were making copies of the records; yes, sir.

By Mr. IVINS:

Q. Do they still use that room? A. No, sir.

Q. What use is that room put to now? A. That room has been — since Mr. Fitzgerald took charge of the office — all of those chattel mortgages, index books and other things that were there have been stored away in the further end of the building in kind of a loft there they have been put into, and the room has been cleaned up and painted and refloored and racks have been put up there and most of the recording copying clerks have been put up there, 800 of the mortgage libers and the clerks engaged in copying the old records.

Q. Have you brought with you, at the request of the register, a memorandum showing the number of satisfactions of mortgage now in the office but unrecorded? A. I haven't got the number unrecorded; I have got the number received since the first of January.

Q. What we asked for was the number unrecorded; how many have been received since the first of January though? A. Ten thousand and two hundred and twelve.

Q. Do you know how many have been recorded since that time? A. They are now recording the month of January and the month of October and November of last year; the work was very far behind when Fitzgerald took charge of the office.

Q. And the work is now still some nine months behind? A. About that, I think; yes, sir; it was very far behind when he took charge there, and Mr. Young, the satisfaction clerk, was engaged there in marking off the record, put a certificate on the record; I think, somewhere around in the month of April.

Mr. IVINS.—No further questions I care to ask this witness.

By Senator FASSETT:

Q. Well, how did the amount, volume of work done in the office in 1886 compare with the general volume of the work done in the office in 1889. A. With the exception of the searchers, the volume of business very much increased.



Q. Yes; all their branches of business have increased, have they not, except the searching? A. Yes.

Q. Was the searching a large factor of the business? A. It was under Mr. Reilly and under previous registers.

Q. The title companies were organized and began doing business when? A. During Mr. Dougherty's term, I think; during Mr. Slevin's term the lawyers' company organized.

Q. How do you account for the decided and sudden falling off in the amount of searching done in the register's office since 1886? A. When Mr. Slevin took charge of the office in 1887 there was no provision made for expediting searches; they had nothing to act upon except the old statute, which was passed when the office was first organized, allowing twenty days to the register for making a search; most of the searches that were received — most of the requisitions received were wanted in less time than that; no provision was made whatever under the Rosevelt act for expediting searches —

Q. Yes; but it was remedied in the winter of 1887? A. In May, 1887, and during that time, the work of searching got so far behind that the Lawyers' Title Company was organized and they undertook that work, and they gave a guaranty same as the Title Guaranty Company does, and have formed a stock company, in which many of the lawyers who did the largest business in the office are interested.

Q. But including the searching, then your volume of work in 1886 was not far different from what the general volume of the work is to-day? A. Except that there has been an increase.

Q. How do you account for the fact that sixteen men could do the work under Mr. Reilly in 1886 that it now requires fifty-one to do? A. Sixteen men didn't do the work under Reilly in 1886.

Mr. FASSETT.— What was that number, Mr. Ivins? I thought it was sixteen — Mr. Reilly's pay-roll. Sixteen men did the same work that now requires fifty-one to do.

Mr. IVINS — Sixteen were all that he returned.

The WITNESS.— Does that include the searchers?

Mr. IVINS.— Oh, no; that excludes the searchers and the recording clerks.

The WITNESS.— Well, there were some forty or fifty recording clerks, and I think there were over twelve—and I think there were fifteen or sixteen searchers; each one of these searchers employed an assistant, and some of them employed more than one.

By Senator FASSETT:

Q. My question was, how do you account for the fact that it requires fifty-one men to-day to do the work that he did with sixteen men? A.

I don't think it does require fifty-one men now to do the work that he had sixteen to do.

Q. I don't think it does either, but they are on the pay-roll? A. I don't think there are some men — there has been a change —

Mr. IVINS.— We leave the searchers out in each case and we leave the recording clerks out in each case; so that we set the work of the recording clerks and the searchers apart for both terms?

The WITNESS.— One reason is this: That the delivery clerks who are now on the pay-rolls, two delivery clerks, one at 1,500 and one at 1,200, one was designated as a delivery clerk under Mr. Reilly and the other as a collector. At the present time all papers received in the office are paid for when they are left. Under Mr. Reilly and the previous registers, a great bulk of the papers which were left for record, were unpaid for; they were collected when the papers had been recorded, and returned, and many large firms running monthly accounts with the office; they had then a collector to deliver the paper and collect those monthly accounts, another clerk who delivered the paid papers. In addition to that there was no necessity for keeping the cash-book, and the same transcript of the cash-book to be filed with the comptroller; that is new; that was a very large increase in the volume of work done because at that time the papers, very few of them, were entered in the cash-book because very few of them were paid. Now they are all entered in the cash-book.

Q. There are two reasons; any other reasons? A. Another reason is that the index work has been increased, because the indexing has been so far behind, it has been bequeathed from one register to the other as a legacy.

Q. How far behind is the indexing work? A. I think on grantees and grantors it was over a year and a half or two years.

Q. And you more than doubled the force of index clerks? A. Yes, sir; to do that work

Q. Should not they have been able to bring it up in one year? A. No, sir; not necessarily, because the volume of business has been increasing right along and they have not been able to catch up with the regular work.

Q. If a given number of clerks were able to keep up with the work almost, so that they only lost a couple of months until the work had got behind a year, double the number of clerks, it seems to me, ought to have brought it up? A. They have got it up closer now than it ever was before in the history of the office.

Q. You have got double the number of men; that is another reason; any other reason? A. Another reason is there has been an increase

in the business, and an increase in the number of clerks at the request of many lawyers who made complaints that they were behind, and they ought to have their papers returned in quicker order than they had been.

By Mr. IVINS:

Q. Do you remember any of those lawyers; who they were? A. No, sir; that was made under Mr. Slevin; I was not deputy at the time the increase was made.

Q. How do you suppose we can find out who those lawyers were? A. I don't know any means of finding out other than Mr. Slevin might be able to tell you.

By Senator FASSETT:

Q. Has anything happened to make the work of each individual employe any more difficult to perform under the present register than under Reilly? A. Yes, sir; the duties of the tickler clerk are more increased, because he has so many more papers to index.

Q. Anybody else? A. The delivery clerks; the index clerks the same way; the chattel mortgage clerks.

Q. I ask you if there is anything to make the individual employes work more difficult now than it was in 1886? A. I don't think there has, perhaps, with the exception of myself and the assistant deputy.

Q. Have you any system by which you can tell whether each employe in the register's office does his day's work properly? A. The system I have is, that there is a man placed in charge of each quota of clerks, and I hold him responsible.

Q. Does he make any report? A. Yes, sir.

Q. Every day? A. Not every day; no, sir.

Q. What kind of a report do you require him to make? A. My practice is to visit the different departments in the office every day or every two —

Q. That is not an answer to my question; what kind of a report do you require him to make? A. I require the index clerk and the examiner and reader to make a written report.

Q. How often? A. Well, perhaps every month or so.

Q. Every month or so; is there any regularity about the report? A. No, sir; whenever I think he ought to make a report, I ask him —

Q. Whenever you want a report, you ask him for a written report? A. Yes, sir.

Q. What is there to stir up your attention to the necessity of any report at any time? A. Well, may be I find the papers are not coming

down to be signed quickly, as I think they ought to be, I inquire of the examiner the cause of the delay.

Q. Then in the absence of any difficulty in the work, you do not require any report in the absence of any complaint? A. We don't have any complaints except the fact that I make a complaint to the examiners; I don't get papers down quickly enough to have them signed and delivered.

Q. In the absence then of any delay in the return of papers, no report would be required? A. No, sir; because my supposition is that he is keeping up with the regular work as long as the papers come down in the regular order.

Q. And it is not any matter of concern to you whether it takes ten or twenty men to do the work, as long as the work is done; it is no object for you to inquire whether a man is working six hours faithfully every day, or whether he is soldiering half his time, as long as the work from any department comes to you within reasonable time? A. Oh, no; I don't mean to say that; I make an examination in addition to that; I ask the heads of the departments; they are to report to me; their instructions are, if any clerk is absent, he is to report to me the reason for it.

Q. But there is no requirement under your organization of this office, that the heads of departments shall regularly report the condition of work? A. No, sir; I do not know that there is.

Q. Then you have not any system of checking up the amount of work which each employe does each day in the register's office? A. Other than that the head of each division is obliged to have his men constantly at work, and is held responsible to the register for the proper performance of that man's work.

By Mr. IVINS:

Q. How do you hold him responsible? A. By ascertaining whether the work is gaining in any way, or whether it is falling behind.

Q. That is the only way? A. Making a personal examination to find out on the indexing work and on the examination work.

By Senator FASSETT:

Q. Do you do this with regularity; have you stated periods at which you visit the different departments to see how the work is going on? A. No, sir; I do not think it is advisable to have stated intervals, because I think if I go there and catch them unprepared, I think we are more liable to find out whether they are doing their work properly or not.



Q. Have you ever caught them unprepared? A. Sometimes I do; yes, sir.

Q. How many men have you discharged for neglect of duty during this last year? A. I haven't discharged any.

Q. Is it your judgment that every man in that department is each day doing his work fully? A. I think it is; yes, sir.

Q. Do you think any economy could be perfected in any department except the searchers' department? A. No, sir; I don't think there could.

Q. Tell me how it happens there is the wide margin of difference in the cost of administration under Reilly and under Mr. Fitzgerald? A. Well, as I said before, there wasn't the same number of examiners and readers, there wasn't the same number of index clerks, not the same number of custodians, because the business has very largely increased, the number of papers recorded increased, the number of books in the office increased.

Q. The number of papers only increased 5,000 a year, and yet the number of employes has more than doubled? A. I think that on Mr. Reilly's pay-roll all the employes of his office don't appear; there are men who were detailed on other work.

Q. Do you mean to say that he falsified his returns to the Secretary of State? A. No, sir; I do not; for instance, the certified copy clerk don't appear on Mr. Reilly's return; there is now a certified copy clerk in the office; during Reilly's term Mr. Murphy, who is the chattel mortgage clerk, took charge of that and employed a man himself to do it, and out of the fees which he received from Reilly he paid a man the fees, and the man don't appear on the roll.

Q. There is some reason why that need not be done now, because the State is paying all the fees. A. Can't pay any man fees.

Q. Then Reilly could substantially contract with a man at a given sum to do all the work, and if that man could sublet part of his contract, that is what it amounted to, is it? A. Yes, sir; Reilly had no employes at all except his own personal employes; he was the only person responsible.

Q. It was easier under the old fee system to administer this office on an economical basis than it is now? A. Yes, sir; I think so; everybody wants to make as much as he can out of an office same as he does out of a business.

Q. And now all the register is concerned to do is to keep up the work done so that the lawyers shan't complain too much? A. Lawyers shan't complain.

Q. And the more men he can get at a reasonable salary, the more

offices there are to go around among the boys; that is about it, is it not? A. No, sir; I think there has been a demand for those places that have been created, on the part of lawyers; particularly the examiners and index clerks.

Q. Of course there has been a demand; how many lawyers have recommended men for places there? A. I don't know.

By Mr. IVINS:

Q. How many lawyers have suggested the employment of additional examiners or index clerks? A. Well, I know Mr. Arnold spoke about it.

Q. Mr. Arnold is a member of the city government, is he not? A. Yes, sir.

By Senator FASSETT:

Q. President of the board of aldermen? A. Yes, sir.

By Mr. IVINS:

Q. Member of the board of estimate and apportionment, is he not? A. Yes, sir.

Q. One of the men who makes the appropriations, is he not? A. Yes, sir.

Q. Was he speaking as a lawyer or speaking as a member of Tammany Hall and a member of the board of estimate and apportionment? A. Speaking as a lawyer; said there was many complaints made by his clients, that those papers ought to be returned more quickly than they were.

Q. Are they returned more quickly than they were? A. They have been up until about a month or so ago when, owing to an error in the requisition that was put into the board of city records, the papers have fallen behind; Mr. Watson was there, and under Mr. Slevin put in a requisition for libers.

Q. Are there any other lawyers besides Arnold who happen to be a member of the appropriating board? A. I do not remember the names exactly; I think Mr. Loveridge spoke about it.

Q. What Mr. Laverick? A. John C. Loveridge, counsel for the East River Savings Institution.

Q. Anybody else? A. I think Mr. Kelly spoke about it.

Q. Anybody else? A. I don't know as I remember many more names; they have been speaking about it from time to time, additional lawyers; other people who have had papers there come there and ask — wanted to know why we didn't have any more men employed

there; thought we ought to be able to return the papers quicker than we did.

Q. Heard any complaints recently about the fact papers haven't been returned promptly? A. Yes, sir.

Q. Do you know whether there has been any increase in the requisition for additional appropriations in order to enable that to be done more promptly in the future?

Senator FASSETT.—That is in your provisional estimate.

The WITNESS.—I think we have asked for an increase in the index clerks.

Senator FASSETT.—Undoubtedly have.

The WITNESS.—Asked for an increase in the index clerks to keep up.

By Senator FASSETT:

Q. That is not for the purpose of returning papers; that is simply to accommodate your office to the demands of the block system? A. No, sir; I think for index clerks and the present work of the office we have asked for an increase; in addition to that, we have asked for the clerks on the block system.

Q. And alphabetical indexes also? A. Yes, sir.

By Mr. IVINS:

Q. That is the index clerks; have you a memorandum of the amount of work done by the index clerks during the last year of Rielly's term? A. No, sir.

Q. Is it possible to get that in the office? A. No, sir.

Q. Why not? A. I do not think that any memorandum is kept; any official memorandum.

Q. Is it possible to go back through the books in such a way as to ascertain what the volume of work done by the index clerks during the year 1886 was? A. I do not think it is.

Q. Is it possible to tell what the volume of work done by the index clerks was during the year 1889? A. I don't know that it is, unless, perhaps, Mr. Murphy, who has had charge of that bureau for some time, could tell.

Q. Is there any means of ascertaining what the relative amount of work done by the two index clerks in your record department was as compared with the amount of work done by the four index clerks who attended to the business during the year 1886? A. The work of the index clerks on the old records is totally different from the work of the index clerks on the regular business of the office.

Q. I understand it is different in one regard, but was it radically different? A. Yes, sir.

Q. Are they different classes of indices? A. Yes, sir; in many instances.

Q. Just describe that to us? Q. Well, the present system of indexing is a system in which the index is arranged under four letters to one column, four to another; for instance, under the letter "A" you would have "Ab," "Ac," "Ad," "Ae," in one column; another column, "Ah," "Ai," "Aj," and so on; whereas, prior to 1869, the indexing was all one name after another, the simple initial, and those books are in a very much mutilated condition and had to be copied; and in a great many instances the clerks were obliged to leave their books and go to the libers and verify the page, it had become so thumbed and worn that the page had been torn out, and in many instances they had to go through the entire liber.

Q. Will you let some one go over and get one of the indices that was made during the year 1886 and one of the indices that is now being made by the index clerks; the old records? A. I don't think there are any copying old index and old records now; I think they are all engaged on libers.

Q. I don't care what they are engaged on, but the last one that was done by the index clerk who was engaged on indices. A. Yes, sir; I can; you want the original index from which the copy was made?

Q. Yes; I do not simply want the copy; I want the copy that was made by the index clerks for the preservation of old records? A. That wouldn't show it; that wouldn't show what the work is unless you get the original here and show the condition of the book from which the copy was made.

Q. Get two; the original and the copy, and then also get any one of the indices that was made during 1886. A. One of the regular business of the office?

Q. Yes. A. Regular index and one of the others, old one and a copy.

By Senator FASSETT:

Q. About the searches; I want to find out a little something about it; Mr. Hanley says he thinks the office is administered as economically as possible; do you know what ratio the number of searches made last year bears to the number of searches made in 1887? A. In 1887; I don't know in 1887; no, sir.

Q. Well, has it not fallen off about fifty per cent a year; that is, in 1887 it was fifty per cent less than '88, '86 fifty per cent less than '87? A. I don't think the falling off in 1887 was as great as it has been in subsequent years.



Q. Eighteen hundred and eighty-eight over '87; '89 over '88; each year has been fifty per cent? A. Pretty nearly.

Q. That is, in 1887 there were about four times as many searches made as there were in 1889? A. I couldn't say positively about '87; I would speak about '86.

Q. Well, about '86? A. Eighteen hundred and eighty-six, I should say so; yes, sir.

Q. How does the number of searches compare? A. There are now eight searchers employed, and at that time there were fifteen searchers, I think, official searchers, and each of those employed an assistant and some of them two or three assistants.

Q. There are now half as many searchers employed to do one quarter of the business? A. Not half, because those assistants, those clerks that the searchers employed were, in a good many respects, searchers themselves.

Q. What were the searchers paid? A. They were paid in fees, half of the fees; one-half went to the searcher.

Q. Do you know what it averaged; what a man would earn as a searcher? A. Some of them earned as high as eight or nine thousand dollars a year.

Q. Would that be an average earning for fifteen searchers? A. No, sir; I should say \$5,000 a year; in the neighborhood of \$5,000, I should think; may be a little more; may be a little less.

Q. With that they hired helpers? A. Yes, sir.

Q. Now, taking 1887, there were not any hired helpers, were there? A. No, sir.

Q. There were twelve searchers then? A. I think so; yes, sir.

Q. The figures as shown here show that there was four times as much business done in 1887 as there was in 1889? A. Yes, sir.

Q. And yet the searchers remained the same in 1889? A. The searchers are not the same now as they were in 1887.

Q. I am talking about 1889. A. You say that the number of searchers in 1889 is the same as it was in 1887?

Q. Yes. A. Let me understand; do you mean the men or the requisitions for search?

Q. I mean both; in 1887 there were four times as many searches made as in 1889. A. Perhaps so; I wouldn't say positively; I don't know, because I haven't the figures.

Senator FASSETT.—Well, the figures were shown here in about that relation.

Mr. IVINS.—You have got those figures; they show that the number of searches ran down from 1888; that they were about 2,500 in '88 and 5,118 in 1887.

By Senator FASSETT:

Q. Five thousand one hundred in 1887 and about 1,200 in 1889?

A. I think there were more than 1,200 in 1889, because I think we have received something like 1,200 this year — 1,200 and over this year.

Q. Well, between 1,200 and 1,300? A. I think we had more than that last year; I had a memorandum, but I don't think I have got it with me.

Q. I will ask you the question in an entirely different form; has the diminution in the number of searchers kept pace with the diminution in the number of searches? A. Well, I don't know that it has.

Q. No; why not? A. Well, for the reason that no register wanted to take the responsibility of saying that he should reduce the number of searchers; he was an official employed by the city; he was liable for delays in searches, and they preferred to let the board of estimate and apportionment take the responsibility of saying that those searchers should be reduced, and they reduced it four, I think, in 1887, and four last year.

Q. You don't mean four in 1887? A. Yes; I think there were four men dropped the 1st of January, 1887.

Q. The reluctance of the register has been that he did not quite want to take the responsibility of being economical in that department? A. Didn't want to take the responsibility of delays in searching; he was responsible for it and didn't want to cut off the number of men employed, because he didn't know when the volume of business might increase.

Q. Did you help make up the provisional estimate for the next year? A. Yes, sir.

Q. You ask for \$19,000 to employ searchers? A. Yes, sir.

Q. Do you expect that amount to be allowed? A. If the board of estimate and apportionment follow the same custom they did last year and the year before, they will probably reduce them.

Q. How much? A. I don't know.

Q. That is just the very amount they did allow for this year, is it not? A. I think it is; yes, sir.

Q. That is the lowest sum which you are willing to recommend to them as a proper sum to appropriate for that purpose? A. Yes, sir.

Q. How do you account for the fact that a gentleman comes forward here to-day and offers to do the whole business for \$6,000?

A. The gentleman may have facilities for doing the work.

Q. He has not any facilities that you have not, has he? A. He may have.

Q. How could he have? A. He may have purchased some data from some of the searchers employed there under the fee system,

which enabled them to do searches inside of twenty-four hours that would take another man three days to do.

Q. Well, what do you think about it; has he got any such data?  
A. I don't know.

Q. Are there any such data? A. I simply suggest.

Q. Well, why don't the city get that same means of doing business?  
A. I don't know why the city doesn't get it; it was suggested.

Q. That would be very economical; would it not? A. Probably would help out the searchers very much.

Q. About 300 per cent, according to your statement? A. Enable them to do the searches very much more quickly.

Q. Is there any method by which a search equally as accurate can be made in twenty-four hours, that under your system takes seventy-two hours? A. May be made as accurate?

Q. Yes. A. May be made as accurate if the searcher has the data at his command which he has personally made himself.

Q. Where can this data come from? A. It was accumulated from year to year by the searchers who were in the office.

Q. From the material which belongs to the city? A. Yes, sir — no, sir; not material which belongs to the city.

Q. Made from the public records; weren't they? A. Yes, sir.

Q. From records required by law to be kept in the register's office?  
A. Yes, sir; prior to 1887.

Q. Is not it just as much better for your department to get that data as for a private individual? A. No.

Q. Why not? A. Because some of the searchers who have that data were men who had been employed there thirty or forty years, and they had accumulated those data from time to time and kept them up, and paid men to make copies of them and check them themselves, for the purpose of getting business from lawyers, and at that time they were really running a business of their own at the office.

Q. That data is now all owned and controlled by these title companies? A. I believe a good part of it is; I think some of the searchers sold their data to the title companies; I think Mr. Brinckerhoff sold his.

Q. Mr. Fitzgerald testified that he thought a great deal of economy could be made in the searching department; do you think he was wrong? A. I think so, too.

Q. You think so, too? A. Yes; I say I don't want to take the responsibility of saying the number of searchers should be reduced; I don't want to advise the register to reduce that force.

Q. The force is now a good deal larger than is necessary for the

work they actually have to do? A. I think we could get along with a less number of men.

Q. Do you think five cents a folio is a proper price to pay recording clerks? A. I don't think it is; I think they ought to be paid more.

Q. You think the men who transcribed the ancient documents get the best pay? A. Yes, sir.

By Mr. IVINS:

Q. How many folios to a page of a liber of mortgages or a liber of deeds? A. I think there are about seven; I don't know positively.

Q. That would be about thirty-five cents a page? A. Something like that; I think there are seven; I am not sure.

By Senator FASSETT:

Q. The transcribing clerks get a little over one dollar and twenty-four cents a page? A. We figured out at the time that examination was made before the judges that they were paid at the rate of about ten cents a folio.

Q. It does not figure up so on the record; it shows about sixteen cents a folio.

Mr. IVINS.—To cover that, right here I want to call your attention to this paper: "Mayor, aldermen and commonalty of New York to Register Frank T. Fitzgerald, register of the city and county of New York, to services in making copies of mutilated records, under chapter 57 of the Laws of 1883, as per certificate of Hon. Morgan O'Brien, justice of the Supreme Court, during the month of May, 1890, \$2,083.68."

Q. May, 1890, was the last month in which the judges certified to the pay-rolls, was it not? A. I think so.

Q. This is the last certificate of the judges to the pay roll? A. I think so.

Mr. IVINS.—That is accompanied by Form A, "general expenses. Mayor, aldermen and commonalty of the city of New York to Frank T. Fitzgerald, as register, for services, etc., \$2,083.68; and Laws of 1882, Laws of 1883, chapter 410; chapter 57, section 189. I hereby certify that the above amount is correct;" which in this particular audit or warrant is not filled in. Then follows "city and county of New York," the affidavit which is usually appended to all of the warrants and audits in such cases, which in this particular case is not sworn. Then there is appended to that the audit of the auditor of accounts or the assistant auditor of accounts, David E. Austin, certifying to the comptroller this account of Frank T. Fitzgerald as register, for the



preserving of public records, and then "my reasons for the allowance thereof are, that I find the services were duly authorized at a fixed rate of compensation and are certified to have been performed, signed David E. L. Austin," etc.; and then is appended under date of June fourth, Mr. Fitzgerald's receipt for the money. Appended to that is a statement entitled "statement of copyists for the preserving of public records, maps and papers, register's office, city of New York, for the month of May, 1890," a statement showing the amount of work performed in the office of the register of the city and county of New York by copyists engaged in making copies of records pursuant to the provision of chapter 57 of the Laws of 1883.

Q. First is John W. Burns, who appears to have written 152 pages?

A. Yes, sir.

Q. That is correct, is it? A. Yes, sir.

Q. One month, \$100? A. Yes, sir.

Q. John D. Henderson, 115 pages, one month, \$100? A. Yes, sir.

Q. Thomas Goland, 115 pages, one month, \$100? A. Yes, sir.

Q. Now, to go back and connect this at this point with your testimony, that is in excess somewhat of ten cents a folio, isn't it? A. I think it is; I don't know; I will have to figure it out.

Senator FASSETT.—You can figure it very rapidly.

Mr. IVINS.—He would have to have one of those records here for the purpose of seeing what they average.

Q. They average seven folios per page, they have testified? A. I don't say that, positively.

Senator FASSETT.—That is the testimony of our experts.

Mr. IVINS.—That is the testimony of the experts and the testimony of the register. The register testified that seven folios per page was fixed as a page for certain classes of work, and five folios per page for another class.

Senator FASSETT.—No; seven pages a day for indexes and five pages a day for libers.

The WITNESS.—Yes, sir.

Senator FASSETT.—Five times twenty-four for instance, would be more than 115. I don't see but those men fell below the minimum.

Mr. IVINS.—To go on, Theodore Bunderlich, 115 pages one month \$100.

Senator FASSETT.—I wish you would ask what this 115 page man was working on.

By Mr. IVINS:

Q. Conveyances, sixty-six pages.

By Senator FASSETT:

Q. That would be less than five pages a day, wouldn't it? A. That would be less than five pages a day for twenty-three days.

Q. Is that the number of working days there are in a month? A. I presume so.

Q. You deduct holidays altogether and Sundays and Saturday one-half a day? A. Yes, sir; we take the actual number of working days during the month.

Q. And call a working day six hours? A. From 9 o'clock to 4.

By Mr. IVINS:

Q. Is the working day fixed by the pages or by the hours; if a man were actually to do ten pages in one day and did nothing the next day, would that go as two day's work? A. I don't know; if he fell behind in his work he would be obliged to keep up to the average; to make an average of five pages per day throughout the month.

Q. Suppose a man did his 100 or 110 pages in the course of the month, he would get his \$100 wouldn't he, whether he did that in ten days or in twenty-three days? A. I don't know; if I knew he was away during that time he would probably be expected to do other work to make up for it.

Q. What other work could you oblige him to do? A. To copy from another book.

By Senator FASSETT:

Q. Under this system if a man does the maximum amount of work, he does not get any more pay than for the minimum amount of work? A. Yes, sir; they get paid for the actual amount of work they do, 115 pages.

By Mr. IVINS:

Q. Mr. Burns did 152 pages and got \$100, and Mr. Brady did ninety-five pages and got eighty-three dollars, and Mr. Garvey did 115 pages and got \$100? A. Some of those men were engaged on indexes and libers both; you will find this man here, part of that is index work and part of it is liber work; he did a mixture of both.

Q. Tell us what he did, John W. Burns? A. Mortgages from liber 125.

Q. That is index work? A. Yes, sir.

Q. One hundred and fourteen pages of index work? A. Yes, sir.

Q. Is that more difficult or less difficult than the work of copying the libers? A. I should say it was about even.

Q. Then it does not make any difference? A. How do you mean?

Q. It does not make any difference which he is doing so far as the volume of work is concerned, if they are about even? A. The index books, the pages are not so large, the pages are smaller.

By Senator FASSETT:

Q. The number of words written is about the same? A. The number of words; but it is more difficult to write in an index book, because they have got to write them in a larger hand; everybody can't write an index hand.

By Mr. IVINS:

Q. Is not it the fact that index writing is regarded as a nicer piece of clerical work? A. Yes, sir.

Q. So that if a man did 114 pages of index work and did it well, it would be quite as much as if he did 114 pages of transcribing, wouldn't it? A. No; I don't think it would, because he wouldn't have done as much actual work.

Q. It would have taken as much actual time, wouldn't it? A. Yes, sir.

Q. This is liber 1, grantor's liber 293 to liber 314, fourteen pages; that was also index work? A. Yes, sir.

Q. Then he worked on conveyances 455, pages 1 to 24, twenty-four pages? A. Yes, sir.

Q. Then in that case that man did 128 pages of index work and twenty-four pages of liber work? A. Yes, sir.

Q. Being 152 pages all told? A. Yes, sir.

Q. For which he got his \$100? A. Yes, sir.

Q. Wasn't that as difficult work, or more difficult work than this that Louis Arnstein did, who did 100 pages of conveyance for \$100? A. I don't know that it was; I couldn't say, because I would have to see the books; I don't know what those books were; I don't remember what they were or the condition of them.

Q. I gave you Theodore Bunlerlich, didn't I? A. Yes, sir.

Q. Joseph J. Reilly, does that 121 pages belong to him? A. That belongs to Arnstein, I think.

Q. Joseph J. Reilly, 115 pages, \$100? A. Yes, sir.

Q. Louis Arnstein has 100 pages, and it appears there is another 121 pages that should be added to him of an index, \$100? A. Yes, sir.

Q. Peter J. Garvey, 115 pages, \$100; Patrick H. McKenna, 110 pages, ninety-five dollars and sixty-five cents; James Brady, ninety-five pages, eighty-three dollars and thirty-three cents; John O'Connor, 141 pages, \$100; John Arncchel, 115 pages, \$100; Edward F. Starin,

115 pages, \$100; David J. O'Connell, 115 pages, \$100; out of thirteen men on the first page, it appears that seven did just 115 pages of work; how do you account for the fact that seven men out of thirteen did just an even 115 pages of work in that month — is that a month's work? A. I presume it is; yes, sir.

Q. And that is the actual number of working days? A. Just twenty-three days at five pages a day would be 115 per month.

Q. Then in reality five pages a day is a day's work? A. Yes.

Q. And if a man did 115 pages in six days or ten days — A. He couldn't do it.

Q. Suppose he did it in fifteen days? A. He couldn't do it.

Q. Couldn't he do ten pages a day? A. No.

Q. Couldn't you do ten pages a day? A. No; not of that work; I could not.

Q. What do you call a day? A. A working day, from 9 o'clock to 4.

By Senator FASSETT:

Q. Six hours? A. Yes, sir.

By Mr. IVINS:

Q. Suppose you did ten pages in an hour? A. I couldn't work ten hours at that; I don't think anybody could work ten hours steadily at that work; a man's eyesight would not hold out long enough; he would have to stop; those books are in very bad condition; they are old and yellow and musty, and sometimes you have to use magnifying glasses to decipher them.

Q. Second page, Edward Hogan, Jr., fifteen pages, thirteen dollars and four cents; John B. Kiernan 115 pages, \$100; Michael J. Curley — there is nothing on the record to show what pages he did; it says F 1 grantor; are four grantor, D 1 grantor, T 1 grantor and F 2 grantee; there is no reference to pages? A. He was engaged in writing in the liber number on indexes; those old indexes are arranged according to liber numbers, not according to dates, and those numbers were not put in by the clerks who kept the books; they simply indexed them, and he put in the numbers afterwards; if you have that book here, I will show what the nature of that work was.

Q. Eighty-three dollars and thirty-three cents; John Burns, examiner, and Louis T. Smith, reader, worked on S 3 grantors, K 3 grantors and G 1 grantors; is there anything on the face of this record which contains the certificate of the judge, and of the auditor, to show what part of those books they examined and compared? A. All of them.

Q. The entire book? A. Yes.

Q. You are certain of that? A. Yes, sir.



Q. For which Burns is extended \$125, and Smith, reader, \$100? A. They were engaged in examining those books.

Mr. IVINS.—Bernard F. Fitzpatrick and Edward K. Parish, reader, W 3 grantor, F 1 grantor, T. 1 grantor, are extended \$100 each. James J. Kirk and William J. Harrington, reader, F 2 grantee, P 2 mortgagor, C 2 mortgagor; Kirk extended eighty-three dollars and thirty-three cents, and Harrington, \$100. That is the pay-roll, footing up \$2,083.68, certified. "I have examined this pay-roll, and certified that it is correct as to the calculations, extensions and proper certification. E. Wilson, examiner of claims." Then follows the register's certificate: "I, Frank T. Fitzgerald, register of the city and county of New York, do hereby certify that the persons named in the foregoing statement, were duly employed by me as register; that they were actually employed during the period set forth in the foregoing statement; that the services set forth were necessary for the proper performance of the work of making copies of records and pursuant to the provisions of chapter 57 of the Laws of 1883, and that the sum of \$2,083.68 will be a reasonable compensation for the performance of such services. Frank T. Fitzgerald, register." That is followed by this: "City and County of New York, ss.: Being severally duly sworn and says, each for himself, that the services specified in the foregoing statement have been in fact performed, and by due authority, and that he has been actually employed, and has performed services during the term of service therein stated; that no perquisites, commissions or allowances of any kind have been, or will be paid, either directly or indirectly, in consideration of the procurement of such services, and that the full amount is now justly due. Sworn before me this 4th day of June, 1890. John A. O'Brien, notary public, New York county," signed by Messrs. Burns, Henderson, Goland, Bunderlich, Reilly, Arnstein, Garvey, McKenna, Brady and the rest of the clerks named in the pay-roll. Then that is followed by this certificate of the justice of the Supreme Court: "I, Morgan J. O'Brien, one of the justices of the Supreme Court for the first judicial district, do hereby certify that I have examined the work of making copies of records in the office of the register of the city and county of New York, now being done pursuant to the provisions of chapter 57, Laws of 1883, as to the manner and form of execution of said work and that I approve of the same, and I hereby certify that the amounts set forth in the foregoing certificate of Frank T. Fitzgerald, register of the city and county of New York, for the services rendered in said work are reasonable for the services rendered. Morgan J. O'Brien, justice, Supreme Court." Judge O'Brien here says that he has

examined the work of making copies of record in the office of the register as to the manner and form of execution of said work.

Q. Will you tell what examination he made? A. He came over there to the office and examined the work that was done by the clerks; that statement was handed to him with the name of the clerk and the book which he had copied, and the original book, and the copy were shown to him, and he went through them and made an examination of the work, each man's work.

By Senator FASSETT:

Q. How long did it take him? A. I don't know; I should say an hour or so; I don't know exactly what time.

Q. An hour, or was it two hours? A. I don't think it was two hours; I never timed him; I don't know exactly how long it took him; he came over there usually after 4 o'clock, because he couldn't get away before that; sometimes he would come over in the morning before 10 o'clock.

Q. We are talking about this particular time? A. I don't remember the circumstances of that particular time, other than he came over and made the examination, how long he was there I don't know.

Mr. IVINS.— Will you allow me to interrupt this witness for a minute while we swear Mr. David E. Austin. He wants to get back to the department, and it will only take a minute for me to examine him on the point that I want in regard to these pay-rolls.

Senator FASSETT.— Certainly.

[Witness withdrawn for the present.]

DAVID E. AUSTIN, being duly sworn, testified as follows:

By Mr. IVINS:

Q. You are one of the auditors of account in the comptroller's office? A. Yes, sir.

Q. I have here the pay-roll from the register's office for the payment of the clerks on the work of preservation of public records for the month of May, 1890, to which your audit is appended; will you tell what that audit means? A. Exactly what it states in it, that we find that the services were duly authorized at a fixed rate of compensation and are certified to have been performed.

Q. Your audit rests then entirely upon the certificate, does it? A. Yes, sir.

Q. And if the certificate is regular your audit is simply to the effect of the regularity of the certificate itself? A. Yes, sir.

Q. And the auditor in this case has no responsibility whatever beyond the responsibility for checking the regularity or irregularity

of the certificate which is behind him? A. That is all; we don't go into the detail of the execution.

Q. Then, in that case the real audit is the audit of the justice of the Supreme Court? A. Yes, sir; that is under the provisions of chapter 57 of the Laws of 1883.

Q. That applies equally, does it, to the audit on the pay-roll for August, 1890? A. Is that the same pay-roll?

Q. It is the same sort of pay-roll? A. Yes, sir; it is precisely the same thing.

Q. Except that in this case the auditor is satisfied by the certificate of the register, in view of the amendment of the law? A. Yes, sir.

Q. And the auditor has no further responsibility? A. He has no further responsibility in that.

Mr. IVINS.— That is all I want in this witness.

FRANK T. FITZGERALD, recalled, further testified:

By Mr. IVINS:

Q. I have here the pay-roll for the month of August, 1890, for like services; this pay-roll shows John Burns, 784 First avenue, examiner, term of service from August first to August thirty-first, one month, rate per annum, \$1,500, amount \$125, receipted John Burns, and so on for the rest of the clerks employed in this service; can you tell why it is that the amount of work performed was certified on the old certificate, that is the certificate made by the justice of the Supreme Court, and the amount of work performed is not certified on those certificates now made by the register under the amended law. A. For the reason that under the original act of 1883, the matter was entirely under the supervision of one of the justices of the Supreme Court; he was obliged under the law to make that examination, and he required that statement to be appended there in order that he might make the examination, and the comptroller required the same thing; when the act was passed amending the act of 1883, giving those clerks a standing as clerks of a city department, and having them paid by the comptroller through the paymaster the same as other clerks, the finance department approved of that form of pay-roll without the certificate being sent in; the register, however, requires the same amount of work to be done, and keeps a statement in the office showing that each man has actually done that amount of work the same as heretofore, the average on a liber of five days and seven on an index; unless he does that amount of work and has been present the full time he does not receive that amount of pay that is prescribed by the board of estimate and apportionment.

Q. What book is that statement kept in? A. Book that is kept in the office, it is kept by the chief of the department and submitted to the register and to myself, a statement showing the work that every man has done since the 1st of January, 1890.

By Senator FASSETT:

Q. It amounts to this, doesn't it, if a man doesn't do his five pages a day for a month, he does not get his \$100? A. Yes, sir.

Q. That is the minimum work? A. Yes, sir.

Q. But if a man should do six pages a day for each day he wouldn't get a cent more? A. No, sir; because their compensation is fixed.

Q. It is then a premium paid upon laziness, isn't it. A. No, sir; it is not.

Q. What inducement is there for a man to do all the work he can possibly do? A. Because it has been found from practical experience in the office that five pages a day is as much as any man can do on that work.

Q. Is not then five pages a day fixed as the extent which the man of least capacity can fulfill? A. No, sir; it is an average based upon experience.

Q. There are about seven folios to a page? A. I think so.

Q. One hundred words to a folio? A. Yes.

Q. Thirty-five hundred words a day? A. Yes, sir; that would be thirty-five folios.

Q. That would be 3,500 words a day? A. That is right.

Q. And six hours is a day's work? A. Yes, sir.

Q. If by any possibility a clerk was so able that he could fill up six or seven of those pages a day, he wouldn't get any remuneration for it? A. I don't know; we never had an instance of that kind occur.

Q. You never had such an instance? A. No.

Q. They nurse the job very carefully, don't they? A. No; I think that is all they can do

Q. Isn't it a little singular that out of thirteen men each one of them does just exactly five pages a day for the twenty-three days of a month? A. That is what they are required to do, and what the judges of the Supreme Court required that they should do.

Q. The justices of the Supreme Court fixed this limit? A. Yes, sir.

Q. And these men work according to that limit? A. Yes, sir.

Q. Do you think that is the most economical way to get the work done? A. I think it is on that work; yes.

Q. Why wouldn't it be a pretty fair way to fix a price per folio which would be an adequate return, and then let these men work per



folio? A. Because you can't fix any price per folio on that work, for the reason that the indexes you can't estimate by folio.

Q. Why not; you estimate it by the page; why not by the folio? A. Because all the pages don't run the same.

Q. They will average up a thousand for a thousand pages; just about so much? A. Some of those old books would have fifteen or twenty names on a page, and some of them would have thirty-five or forty; they might be very much crowded and very much obliterated.

Q. In those cases the pages that had a few names on would count for just so much? A. Those men are put on there at the same work, and it is not fair that one man should be put on a more difficult book than another and get the same pay.

Q. Then if he did work by the word or folio it would be a good deal fairer way than by the page? A. No; because a man is supposed to take a book as it comes.

Q. You can't make more or less than 100 words in a folio? A. No.

Q. You can make more or less than seven folios on a page, can't you? A. Not in that work.

Q. Then why do you tell me that there is not the same number of folios on each page? A. I say that you can't make it any less than seven folios, because you have got just exactly what is on the original page, line for line and page for page.

Q. If books differ from each other as to the number of folios on a page, the man that gets the book with the least folios on a page has a soft job, hasn't he? A. They will all average about the same.

Q. Answer my question? A. I don't think he has any soft job; no.

Q. Then a man who does the least work does not have an easier test than the man who does the most work? A. Not necessarily; one man may have a more difficult work to copy than the other; it depends upon the book.

Q. But so far as the quantity of work is concerned, seven folios is more than five folios? A. Yes, sir; most assuredly.

Q. You can't make more than 100 words in a folio, can you? A. No.

Q. Nor you can't make less than 100 words in a folio? A. No.

Q. Then wouldn't it be a better way to give out that work by the folio instead of by the page? A. It might be a better way but I don't think it would.

Q. Why not? A. Because a man who has to do the most difficult book, sometimes you would require a better clerk to do a more difficult book than you would for another.

Q. Is one book more difficult than another? A. No, sir; but the condition of the original books.

Q. You don't make that distinction now, do you? A. No.

Q. You work page by page, whether the book is difficult or easy now, don't you? A. Yes.

Q. What is the use of talking such nonsense; why wouldn't it be a good plan to give those books out by the 100 words and let the man get his pay for the amount of work he does? A. Because it was not deemed so; the judges didn't do it.

Q. The judges didn't do it? A. And the register was bound to follow their views.

By Mr. IVINS:

Q. I asked them to bring me an index which had been copied from one of the old indexes, and they have brought me grantors S 4, register's office; that, I suppose, they have picked out quite indifferently as they have come across it; there is, evidently, no element of selection in one form or another; it is the first one they bring, at any rate; I open it quite by chance at a page which is number 797? A. That is the liber number.

Q. That the liber number 797; these pages are not numbered? A. No.

Q. They are numbered by the number of the liber? A. Yes, sir.

Q. I have counted on that page of this index every word, and I have counted each initial as a word, and a page shows ninety-seven words, each initial being counted as a word where the initial stands alone, which is less than one folio, and nevertheless it is a page; now, with that in view the repetition of Senator Fassett's last question will be entirely in point?

Senator FASSETT.—This witness seems to be afraid of answering the question.

The WITNESS.—No, sir; not at all.

By Senator FASSETT:

Q. Don't you think, in other words, that instead of trying a system which the judges have passed upon, which combines the job plan and the day plan, it would be better to pay a man, to fix upon a rate per folio or a rate per page, and pay men for the work they could do? A. I think it would; yes, sir.

Q. That is what I was trying to get at; so do I? A. Only for the fact that the Legislature passed an act authorizing the board of estimate and apportionment to supply salaries, and we have got to act under a salary system, and it was submitted to the judges and we have to follow their approval.

Q. Do you mean to say that the law requires that these men shall be paid by salary irrespective of the work they do? A. No, sir; by a salary fixed by the board of estimate and apportionment.

Q. The board of estimate and apportionment can pay them in any way it pleases; can it not; either by job or by the day? A. Yes, sir; but they have fixed a salary of \$1,200 for the year for the men engaged in that work.

By Mr. IVINS:

Q. The day's work is seven of these pages; isn't it? A. Yes.

Q. Take this page, which I have opened at quite by chance, and which contains ninety-seven words, initials being counted as words, which is a fair sample, then seven of these pages would be less than 700 words, which would be a day's work, for which the men would be paid approximately five dollars.

Senator FASSETT.—Four dollars and fifty cents.

The WITNESS.—Yes, sir.

Q. Do you think that it is possible to get that service rendered; do you think it is possible to find clerks in the city of New York dissociated from political organizations, well qualified to do their work, who will consent to write 700 words for four dollars and fifty cents a day? A. It may be possible; I suppose it is possible to get men to do anything; I don't know that any register ever tried; they simply have done as they were told.

Q. Who told them? A. The judges of the Supreme Court.

Q. Did the judges of the Supreme Court tell them to pay four dollars and fifty cents a day for writing 700 words? A. They decided the rate of compensation and the work to be done.

By Senator FASSETT:

Q. Didn't the judges of the Supreme Court do that after an examination of the register at the time? A. I don't remember, because I wasn't in the office at the time; it was in 1883, when Mr. Dougherty was register that the act was passed, and each register has followed the other.

Q. In other words, when a system is established in your office it maintains itself, whether it is good or bad? A. I don't think so.

Q. The register does not feel called upon to institute any reform, and whatever he finds in the office he is justified in retaining there? A. No; I don't think so.

Q. That is the plan on which you run the office; isn't it? A. I don't think so.

Q. Have you ever recommended to the board of estimate and apportionment any more economical method? A. No, sir.

Q. Have you ever gone over your department to see if you couldn't cut off some few thousands of expenses in it? A. I don't know that I have.

Q. And you never made any recommendation to that end, have you? A. No, sir; I have not.

Mr. IVINS.—I don't think I care to ask this witness any more questions.

Senator FASSETT.—I don't care to ask him anything more.

FRANCIS H. GILHOOLY, being sworn, testified as follows:

By Mr. IVINS:

Q. Where do you live? A. Two hundred and sixty-four Greenwich street, at present.

Q. What is your business? A. I am custodian in the register's office.

Q. What other business have you? A. I have business as agent and superintendent for a place in Vesey street.

Q. What business is that? A. Wine and liquor room.

Q. Where? A. Ninety-eight Vesey street.

Q. When were you served with a summons in this matter? A. After 5 o'clock yesterday evening.

Q. Are you sure it was after 5 o'clock? A. To the best of my knowledge.

Q. Where were you when you were served? A. I was behind the bar.

Q. At this place in Vesey street? A. Yes, sir.

Q. Where had you been through the day? A. I was in the register's office.

Q. All day? A. Pretty much all day.

Q. Where were you during the part of the day that you were not there? A. I was up to see a sick child at my sister's, at 360 Greenwich street.

Q. How much of your time do you spend in the register's office? A. I couldn't tell exactly; I never kept a memorandum of the number of hours.

By Senator FASSETT:

Q. Does one day differ from another as to the time you spend there at the register's office — some days you are there longer than other days? A. About the average.



By Mr. IVINS:

Q. What is the average? A. Three hours a day sometimes.

Q. What time do you go there? A. Nine to a quarter past 9.

Q. What time do you leave there? A. About a quarter to 4.

Q. How do you come to make three hours as the average? A. I didn't say three hours a day — in the morning.

Q. I understood you to say during the day? A. No, sir.

Q. What do you do during the day when you are there? A. Look out for the books, put them in their proper places, and if anybody asks for information where to find them, and to see that they are not mutilated and are not taken out without permission.

Q. Do you go there every day? A. Yes, sir.

Q. Have you been every day this year? A. I have not been a year yet.

Q. Then you say that, so far you have been there every day?  
A. Not every day; not quite.

Q. How many days haven't you been there? A. I have not kept any memorandum.

Q. Has anybody kept a memorandum? A. We always report there.

By Senator FASSETT:

Q. Have you ever been docked any? A. No.

By Mr. IVINS:

Q. Whom do you report to? A. To the office; I go up stairs to the room and stay there until such time as I leave.

Q. Who do you report to? A. I don't report to anybody in particular; I go up stairs and they see me.

Q. How do you know they see you? A. I stand there for them to see me.

Q. Do you call their attention to the fact that you are there? A. Yes, sir.

Q. Do they enter your coming and going? A. I couldn't answer you that.

Q. Does anybody supervise the way in which you do your work?  
A. I was told what my work was; I was told what my work should be when I went there.

Q. And has anybody ever looked into the way in which you performed it since you were told what it was to be? A. Yes, sir.

Q. Who? A. The deputy register comes up to see that our books are kept in proper place.

Q. You say you have not been there every day since the first of the

year? A. Well, I couldn't tell you that exactly; not every day; I have been the majority.

Q. You have been a majority of the days? A. Yes, sir.

Q. Have you been there half the time? A. Oh, yes.

Q. Have you been there a quarter of the time? A. Yes; and more than three-quarters.

Q. Are you sure you have been there more than three-quarters of the time? A. Yes.

Q. You are perfectly prepared to swear to that? A. I have done so.

Q. What have you done with the other quarter of the time? A. As I told you I report there in the morning and then after 5 o'clock I go down to Vesey street; after office hours.

Q. Have you gone there three-quarters of the days? A. Yes, sir; I believe I have.

Q. Have there been ten days in which you have not gone to the office at all? A. Not to my knowledge; not in a month or two months.

By Senator FASSETT:

Q. You couldn't stay away from the office without your knowledge?  
A. No.

By Mr. IVINS:

Q. Has there been any one day that you have never gone to the office? A. Not excepting when I have been sick.

Q. Have you been sick often? A. Not often; I am subject to kidney disease.

Q. Have you been so sick that you have not been able to attend to the bar? A. Yes, sir; I don't attend bar until 5 o'clock.

Q. Have you never been behind during the day in the forenoon; I want you to answer that very thoughtfully and carefully. A. I go there in the morning at 6 or 7 o'clock, and stay until half-past 8.

Q. Have you never been behind the bar between 10 and 12 o'clock in the forenoon? A. I couldn't say?

Q. You must say? A. I couldn't exactly say.

Q. Are you prepared to say that you never have been behind the bar between 10 and 12 o'clock in the forenoon? A. I might have been there.

Q. Is it not a fact that you have been there? A. Perhaps I have.

Q. Don't you think that I can call witnesses to prove that you have been there? A. That may be too, but I don't know how often.

Q. Will you tell us what right you had to be behind the bar between 10 and 12 o'clock, when you ought to have been in the

register's office? A. On account of getting my meals; that is the only time I go there.

By Senator FASSETT:

Q. Do you get your meals between 10, and 12 o'clock. A. Sometimes I skip them that way.

By Mr. IVINS:

Q. Then you have served liquors behind, 10 and 12 o'clock in the forenoon? A. I couldn't say; I might have done it.

Q. In view of the fact that you are a clerk in the register's office, and are expected to be in the register's office, would it make no impression on your mind if you had been behind the bar serving liquors during the time you ought to have been in the register's office? A. I don't think it would during what time I was there.

Q. How much of your time do you actually, between 9 and 4 in the day, spend behind the bar? A. I have never kept any memorandum.

Q. You do spend some time between 9 and 4 behind the bar, don't you? A. Not every day.

Q. But some days? A. Some days.

Q. You wouldn't be at all surprised if I were able to call witnesses here to prove that those days were frequent with you? A. You might be able to do it.

Q. Have you ever told Mr. Fitzgerald that you spent part of the time when he thought you were here behind the bar? A. No, sir.

Q. Have you ever told the deputy register? A. I have never had any conversation with either one on that question.

Q. Do you know that the register has to certify, when he certifies to your pay-roll, that you have spent all of your time and rendered all those services? A. I can't say about that.

Q. Did you ever know that in view of the fact that you spend part of your time behind the bar when you are supposed to be in the register's office, you put the register in the position every time he certifies your pay-roll, of certifying erroneously or falsely, did you ever know that? A. No.

Q. Did you know that such an erroneous certification was punishable by law, and that you were putting your superior officer in that position? A. I am not posted on the law.

Senator FASSETT.—He is evidently not posted on the law. I think you had better ask him as to questions of fact.

Mr. IVINS.—I think it is very well for him to realize the position he is putting his superior officer in and equally do to have his superior realize the position he is putting him in.

Senator FASSETT.—I don't think it is our duty to do that. His superior should do that.

By Mr. IVINS:

Q. How much of your time do you actually spend behind the bar during the time from 9 to 4? A. I have never kept a memorandum.

By Senator FASSETT:

Q. Even if you have not, you have a good memory, haven't you? A. No.

Q. Your memory isn't bad, is it? A. Yes, sir.

Q. Have you got a bad memory? A. Yes, sir; I have, indeed.

By Mr. IVINS:

Q. How long has it been bad? A. Since I was born.

Q. You were born bad? A. No; not me, but my memory.

Q. Is your memory good enough to be able to recollect who is using a particular liber in a register's office? A. I don't know each gentleman by name; I couldn't call them by name.

Q. Is your memory sufficiently good to identify a book so as to see that it gets back in place? A. Yes.

By Senator FASSETT:

Q. Your memory is good enough to know whether you are in the register's office every day or not, isn't it? A. Yes, sir.

Q. You can remember also whether you go down to the bar every day, can't you? A. I don't go to the bar.

Q. You know you don't go there every day? A. Not to the bar; no.

Q. Take week after week, about how many days do you spend down there at the bar when you ought to be at the register's office? A. I have never spent a whole day at the bar.

Q. You go on at 5 o'clock, do you? A. I make my own time.

Q. But you don't go there before 5 o'clock? A. Six o'clock.

Q. When you go on at 6 o'clock, how long do you stay? A. Till 8 or half-past 8 in the morning.

Q. And then you go on the next morning at 6 o'clock? A. No; I go on at 5 o'clock in the evening again, and stay until 9 or 10 o'clock, or 12 o'clock.

Q. You go on at 5 or 6 o'clock at night and stay until about midnight? A. Until 10, 11 or 12 o'clock.

Q. Then you do not stay after 12? A. Very seldom.

Q. The bar is required by law to be closed at 12, isn't it? A. Yes.



Q. It wouldn't do for you to acknowledge that you stayed after law, you know? A. No.

Q. Then the next day do you go on at 5 or 6 o'clock in the morning? A. Six o'clock.

Q. That does not give you over five hours sleep? A. Oh, yes; I don't stay there until 12 o'clock every night; 10 o'clock is about the average.

Q. You see your lack of sleep would account for your having a poor memory? A. I don't think it will.

Q. When you sit up till 12 o'clock at night you do not go on the next morning at 6 o'clock at the bar? A. Just the same.

Q. Then you stay at the bar from 6 o'clock? A. Until the men get their breakfast, and then I am through.

Q. What time do they get their breakfast? A. Between 6 and 8.

Q. And then after between 6 and 8 you come down to the register's office? A. After I get my breakfast then I come over.

Q. How long does it take you to eat your breakfast? A. Twenty minutes.

Q. That gives you time to get up to the register's office at 9 o'clock? A. Yes, sir.

By Mr. IVINS:

Q. As a matter of fact then between the bar and the register's office you work from 5 o'clock in the morning till 12 o'clock at night? A. Until 10 o'clock.

Q. You work from 5 o'clock until 10 o'clock? A. Yes, sir.

Q. That is fifteen hours a day's work? A. Yes.

Q. Do you think that working fifteen hours a day's work you are in condition to put in a good faithful, competent, able, six hours a day out of the fifteen in the register's office? A. Yes, sir.

By Senator FASSETT:

Q. That is not very hard work in the register's office, is it? A. No.

Q. Your business is to sit there and see that they don't run away with those big books? A. Yes.

Q. A man can't slip one of those big books up his sleeve? A. Not very well.

Q. Do you get a salary in your regular business? A. Twenty-five dollars a week.

Q. Twenty-five dollars a month? A. No; a week — thirty dollars a week.

Q. Then how much do you get from the register? A. One thousand dollars a year.

Q. Since you have been at work for the register you have not had to drop off any of your regular salary, have you? A. The men, I have to give them something for staying my hours.

Q. What men, the men down at the bar? A. Yes, sir.

Q. How much do you have to give them? A. I give them no stated price.

Q. Anything you have a mind to? A. Yes.

Q. You give them a little something now and then? A. That is it.

Q. Then it amounts to just this, that you get your \$1,000 from the register and your \$1,200 from your employers, so that you get a \$1,000 extra, and out of that you pay a little something to the boys? A. Yes, sir.

By Mr. IVINS:

Q. Which row do you work on in the register's office — whereabouts? A. In the grantee and grantor books.

Q. What row do you have of grantee and grantor books? A. I have the whole four rows.

Q. Who looks after those rows when you are at the bar? A. I am not looking after them when I am at the bar; there are always some few of us there; if one goes away the other takes his place.

Q. When you are there is the other fellow away? A. No.

Q. He is there all the time? A. They are there.

Q. Then what is the use of you? A. That is what I get paid for.

Mr. IVINS.—That is all Mr. Gilhooly.

EMANUEL MENDELSON, being sworn, testified as follows:

By Mr. IVINS:

Q. Are you in the employ of the register? A. Yes, sir.

Q. Where do you live? A. Ninety Greenwich street.

Q. How long have you been in the register's office? A. Since February, I believe.

Q. Of this year? A. This year.

Q. And what do you do there? A. In general taking care of the books, to see that they are in their proper places.

Q. You are one of the custodians so called? A. Yes, sir.

By Senator FASSETT:

Q. Are you the chief custodian? A. No — custodian; I am on the lower floor with the mortgagees.

By Mr. IVINS:

Q. What time do you get there in the morning? A. About 9 o'clock in the morning.

Q. How late do you stay? A. Until 4 o'clock.

Q. Do you stay there from 9 till 4? A. Every day.

Q. Always? A. Always.

Q. Have you been there every day since you first went into the office? A. Yes, sir.

Q. Without an exception, except Sundays? A. Except Sundays, Jewish holidays, or may be temporary illness.

Q. Do you include Saturdays in Jewish holidays? A. Yes.

Q. How many days of temporary illness have there been? A. I couldn't tell that exactly.

Q. What was your business before you went in there? A. Pawnbroker?

Q. Are you still a pawnbroker? A. Yes, sir.

Q. Is your business still running? A. Yes, sir.

Q. Do you still attend to your business? A. At times.

Q. Have you been obliged to employ any extra assistance in your business because of your absence in this office? A. No, sir; but I have extra assistance that I don't have to pay, a relative of mine.

Q. You still carry on your business accurately, however? A. Yes, sir.

Q. Just describe what a custodian has to do? A. It is the principal rule to see that the books are in their proper places, to see if anybody takes out a book that they are restored to the proper shelf, that nobody mutilates the pages, and if there are any books required at court, to bring them there.

Q. How often have you been to court in the last year—a dozen times? A. I couldn't tell exactly, I have been there several times.

Q. What is several, is it five or twenty-five? A. No; it is not twenty-five that I have been there, I don't think; but I couldn't state exactly how often.

Q. Is it a dozen? A. It may be about that much

Q. Probably about a dozen—not more? A. I don't think it would be any more.

Q. Whom do you report to when you go to the office? A. To nobody.

Q. Whom do you report to when you come away? A. To no one.

Q. Who helps you do this work of custodian? A. It requires no help, as I can do the work myself.

Q. Who else is there? A. There are other custodians; they have work to do for themselves.

Q. Then they help you do that which you can do of yourself, is that it? A. They have their work to do, and I have mine to do; they are in different parts of the building.

Q. Where are you in the building? A. In the main floor where you come in.

Q. Do you never go out? A. Yes.

Q. Do you never go out for an hour or two at a time? A. I will go out for lunch or at least for dinner.

Q. Do you ever go out except when you go for your lunch? A. Not as I remember.

Q. Don't you go to you shop and look after your business during business hours? A. No.

Q. You are perfectly sure of that? A. Yes; I will go down to my house and have my dinner and then return.

By Senator FASSETT:

Q. Your shop is in your house? Q. Yes, sir; on a level with the sidewalk.

By Mr. IVINS:

Q. Do you report to anybody when you go to your house in the middle of the day—to anyone in the register's office? A. I may make the remark: "I will go out for dinner."

Q. You may make a remark, but are you required to make the remark? A. It is not exactly asked; you can't expect that a man stays all day without eating.

Q. I don't expect that at all. A. I say the office can't; I don't say that you would.

Q. Although you have told us about a man who works all day for no pay? A. It is a relative of mine, but he does it for pleasure; he is in there and takes care of my interest.

Q. When you come back after your dinner, do you report to anybody that you are there? A. Not particularly; I walk in and I expect I will be seen going in.

Q. And you walk in and out as you think best, isn't that it? A. Well, to some extent as I think best, as I walk in and out only in proper time.

Q. The business is flourishing, isn't it? A. Which business?

Q. In Greenwich street? A. Well, not extra.

Q. It is as good as ever though, isn't it? A. No; not at all; not as good as ever.

Q. Do you think that it is suffering for want of your presence? A. I don't think it is; I don't think it lies on that ground if it does suffer.



By Senator FASSETT:

Q. Your absence does not make any difference to your business, does it? A. No.

Q. By the way, is this pretty hard work this custodian work? A. At times it is very hard indeed.

Q. What do you have to do? A. At times I have to work with the satisfaction clerk marking off discharge papers or whatever you call them — certificates.

Q. That is not work as custodian? A. It is work as custodian to take care of the books and to see that the books are in their proper place, so I will do it to be sure that they are in their places and at the same time trying to do justice —

Q. How often do you have to lift up and down those books? A. Those books, when I work with the satisfaction clerk it is done not frequently, because he has to wait, when he gets the papers together after the papers have been recorded they are marked off in the book, and then, at times, he marks off may be 200 or 300 books.

Q. It wouldn't be impossible for a real lively man to keep track of all the books in the office, would it? A. Yes; it would; it would be impossible for him to do that.

Q. Two men could, couldn't they? A. No.

Q. They couldn't? A. No; because lawyers will take books and place them in different parts where they don't belong at all.

Q. One good live man, if he didn't go to sleep, stationed at the door could tell whether a man was lugging off one of the big books, couldn't he? A. He could see whether a man carried off a book or not; but he couldn't tell whose the book exactly is if anyone wants to get a book.

By Mr. IVINS:

Q. Do you think that a man could steal that book out of the office handily without its being observed by somebody? A. I hardly think so.

Q. Do you think it takes nine custodians to prevent a book of that kind being run away with? A. It is not keeping them from running away at all, what a custodian has to do; but books may be mutilated in the office when they are handled by outside people.

Q. What do you do to prevent the mutilation of books? A. If I see anybody using ink I will stop him.

Q. How can anybody use ink; is there ink on the desk? A. No; if he uses indelible pencils or they may have them in their pockets.

By Senator FASSETT:

Q. An indelible pencil is not ink, is it? A. It may appear on the book as ink when a pencil is used.

By Mr. IVINS:

Q. Do you watch to see that nobody puts anything on a book at all?

A. Yes; it is part of my work.

Q. How many books can you watch at a time? A. A table.

Q. A whole table? A. Yes, sir; I stand on one corner.

Q. That keeps you walking up and down all the time? A. No, sir; I can't be standing there all the time, because in the meantime I will have to look over the books again, because frequently somebody asks for such and such a book, and if it can't be found I will try and find it for them.

By Senator FASSETT:

Q. I should think books ought to be always in their places, with nine custodians? A. But they are not; lawyers will come in and use a book and put it in the wrong place and the next man comes and wants the book and it is not to be found.

Q. Are lawyers permitted to go to the shelves and take down the books? A. Yes.

Q. I supposed the custodians took down the books? A. No, sir; lawyers are permitted to take down the books.

Q. Then the main object of a custodian is to put up the books after these bad lawyers have taken them down and mixed them up? A. You use an expression I have not used; I don't say bad lawyers; I don't say they all do it; but some of them will be careless about putting back a book.

By Mr. IVINS:

Q. Do you know a custodian there by the name of John J. Moloney? A. Yes.

Q. Do you know the Hon. William Moloney formerly known as Billy? A. No.

Q. Did you never hear of Billy Moloney? A. Yes; I have heard the name.

Q. Do you know that John W. Moloney is Billy Moloney's brother? A. No.

JAMES A. HANLEY, recalled, further testified:

By Mr. IVINS:

Q. Is John J. Moloney a brother to Billy Moloney? A. I don't know.

JOHN B. KIERNAN, being duly sworn, testified as follows:

By Mr. IVINS:

Q. What is your present occupation? A. Clerk in the judicated record department, register's office.

Q. How long have you been there? A. Since April 1, 1890.

Q. What was your business prior to April 1, 1890? A. Clerk in the commissioner of juror's office.

Q. Why did you leave the office of the commissioner of jurors? A. I resigned.

Q. Weren't you suspended? A. Yes, sir; and reinstated honorably on investigation.

Q. Who conducted the investigation? A. The commission of jurors.

Q. What were the charges for which you were investigated? A. Merely a garbled account in one of the morning newspapers; nothing more.

Q. A garbled account of what? A. Of an altercation of one Max Mayer, at the Metropolitan Opera House, where I tried to serve a paper on the theatrical manager, Henry E. Abbey, and he has tried to stop the serving; but I served it.

Q. What was your reason for resigning? A. To better my position \$240 a year.

Q. Was it suggested to you that you should resign? A. No, sir; I had the position secured three weeks before I had the altercation with Mr. Mayer.

Q. Who secured it for you? A. The commissioner of jurors.

Q. Do you know Mr. Balentine? A. Yes, sir.

Q. Was there a Mr. Balentine in the employ of the register? A. I understood that he was; I don't know whether he was or not.

Q. Isn't it a fact that you went from the commissioner of juror's office to the register's office and Mr. Balentine went from the register's office to the commission of juror's office? A. Yes, sir; I heard that was the way that it was to be.

Q. In other words places were swopped? A. Yes, sir; this way, that the commission of jurors thought that my previous experience in the register's office rendered me better able to fill the bill than Mr. Balentine was, and Mr. Balentine said that he thought the work was too hard, and he told me so.

By Senator FASSETT:

Q. You got more pay in going up, and he got less pay in going down, is that it? A. Yes; but he couldn't fill the bill in the register's office, and he acknowledged it.

By Mr. IVINS:

Q. Could he fill the bill in the other place? A. Yes, sir; he was detailed as near as I can get at it as a messenger, or something of the kind.

Q. You and Mr. Balentine both come from the same district, do you ?

A. Yes, sir.

Q. You are one of the copyists ? A. Yes, sir.

Q. Now, will you describe what the work of a copyist there is; what a day's work is, and how long it takes you to do a day's work ?

A. Day's work is supposed to be five pages a day; some books are very hard and some are very easy; I consider myself a fairly good clerk, and it takes from four to five hours hard work to put in my five pages on the book I have got.

Q. Is that on the average or on a hard book ? A. That is hard work, and if I put in more than five I feel it the next day; if I put in six I feel it the next day.

Q. Don't you think anybody would ? A. Well, any work of that kind that you feel mentally next day, I think that you are doing a pretty fair day's work.

Q. Suppose you were to do fifteen pages in two days, would that go as three day's work ? A. Well, as nearly as I can get at it I have got a number of pages a day; if I happen to be home two days sick, or three days or four days, I am not excused from my work; I must make up that work if I have to stay till dark to do it.

Q. If you get that number of pages done it is nobody's business when you do it, or how you do it; you get your pay for it, don't you ?

A. If I have got 115 pages in, or whatever the monthly allowance is, I am supposed to get my \$100.

Q. And if you can do that 115 pages in twenty days that is your own affair, isn't it ? A. I never looked at it in that way; I considered that I had to be at the office every day from 9 to 4, and I did so unless I was physically unable to be there.

By Senator FASSETT:

Q. Suppose you did it in twenty days, what would you do with your other ten days ? A. I would work still.

Q. How much money would you get for it ? A. Nothing more.

Q. You never had that experience ? A. No, sir; and I don't think I could do more in a month.

By Mr. IVINS:

Q. You do your five pages a day ? A. That is what I am required to do; some days I do six, and sometimes on a rainy or a dark day I can only do four, and that makes up for the balance of the day before.

Q. Was the investigation in the commission of juror's office taken with a stenographer or was it simply an investigation by the com-



missioner? A. It was an investigation by the commissioner, and he suspended me pending the investigation, and told me that if the charges in the newspaper were proven he would not recommend me to Register Fitzgerald.

Q. But as it is he did recommend you? A. He did when he saw I was vindicated.

Q. Are you confident that this arrangement to shift you into Ballantine's place and Mr. Ballantine into yours was determined on prior to Mr. Mayer's complaint? A. Yes, sir; so the commissioner of jurors told me, and I will make an affidavit to that effect; the commissioner of jurors told me so at least a week before the altercation occurred at the Metropolitan Opera House.

Q. A week before the altercation, or a week before the publication in the newspapers? A. A week before the altercation; the publication was made the next day for the benefit of Mr. Mayer, who is always trying to gain notoriety.

By Senator FASSETT:

Q. What was the charge against you? A. One of the newspapers said I endeavored to serve a paper and became boisterous in the lobby of the Metropolitan Opera House, whereupon Mr. Mayer assaulted me, which is not the case; Mr. Mayer attempted to assault me, but he didn't make that mistake.

Q. That is all there was of it? A. Yes, sir; Judge Ehler issued an order of court why Mr. Mayer could not be punished for contempt of court; what disposition was made of it I don't know.

Q. That is all there was of the charge? A. Yes, sir; I think Mr. Mayer was about three-fourths full of wine on account of it being Patti's first night and I was only endeavoring to serve a warrant.

Q. That was the only charge made against him by anybody? A. Yes, sir; that was the only charge.

By Mr. IVINS:

Q. At any time? A. At any time in the commissioner of jurors' office.

Q. Do you remember charges having been made against certain clerks in the commission of jurors' office for having taken or attempted to take money to secure the excusing of persons serving on jury? A. I have heard that such happened there, but not during my time; I never heard it during my time in the office.

Q. How long were you in the office? A. I went in the office, as near as I can get at it, about November 15, 1—.

Q. Mr. Reilly went in on the 1st of May, 1885? A. Somewhere about that time.

Q. So that this was after Mr. Reilly had been there some three years and a half? A. Yes, sir.

Q. These things that I speak of you heard of as having occurred prior to your going there? A. We always hear rumors of that kind, that people have received money, but I do not know anything further.

Q. Don't you remember that there was a good deal of talk and discussion in the newspapers about a matter of that kind, and that certain clerks were discharged? A. It seems to me that I read something of that kind in the *World*, or some paper, that they had a man removed who was supposed to take money, but I don't know those things to be facts.

Q. Was that before your time, or during your time, that these rumors were? A. I think it was before my time in the office.

By Senator FASSETT:

Q. This man Mayer, you say, had a little trouble with you in the lobby of the theater? A. Yes, sir.

Q. Did you go right after that trouble with Mayer into a neighboring saloon? A. Yes, sir.

Q. What did you do over there with Mayer? A. Detective Sergeant Heibelberg insisted that we part as friends; I did so, more to mollify a drunken man than anything else.

Q. As a token of friendship, did you receive any three tickets or passes? A. Yes, sir; I received a pass which I had in my possession, which was never used; I will submit it if you want to see it.

Q. I don't want to see it? A. Well, that is the best proof you know; I left Mr. Mayer, and after I left him, I was not any better friends than before.

Q. You went through the pleasure of pleasing this drunken man? A. Yes; to satisfy Detective Sergeant Heidelberg.

Q. And the next morning accusation appeared in the paper? A. Yes.

Q. And when did the pass entitle you to admission in the theater? A. The following evening.

Mr. IVINS.—I find these other witnesses are not here. That will be all for to-night.

Adjourned until 11 o'clock, October 16, 1890.

## EXHIBIT No. 8—OCTOBER 14, 1890.

REGISTER'S OFFICE, HALL OF RECORDS, }  
 NEW YORK, *December 31, 1886.* }

Hon. FREDERICK COOK, *Secretary of State:*

SIR.—In compliance with the provisions of section 1763 of chapter 410 of the Laws of 1882, I herewith transmit to you a statement showing the amount of all fees charged or received by me for all official services, together with the sums paid for assistance in the performance of my official duties, and the sums paid for all other expenses incident to the office.

An additional statement is herewith appended showing the amount of all sums charged or received for services rendered for the county. Said statement embraces the year ending on the 31st day of December, 1886.

Very respectfully yours.

JOHN REILLY,

*Register.*

STATEMENT SHOWING RECEIPTS AND EXPENDITURES OF THE REGISTER'S OFFICE,  
 FOR THE YEAR ENDING DECEMBER 31, 1890.

*January.*

EXPENDITURES.

Amount paid to searchers .....	\$4,068 68
Amount paid to employes .....	2,146 10
Amount paid to recording clerks .....	2,041 40
Amount paid to Everson & Reed for stamp .....	1 55
Amount paid to Wortendyke & Son for ice .....	3 38
Amount paid to Tower Manufacturing Company for rubber band .....	1 50
Amount paid to Everson & Reed for repairing stamp ...	1 00
Amount paid to Consolidated Company for gas .. ..	31 50
Amount paid to postage stamps .....	5 00
Total .....	<u>\$8,300 11</u>

RECEIPTS.

Amount received for searches .....	\$8,137 36
Amount paid for 840 certificates .....	210 00
Amount paid for papers recorded .....	4,357 30
Amount paid for 2,740 certificates to same .....	1,041 20

Amount paid for certified copies, etc.....	\$204 06
Amount paid for 2,552 chattel mortgages.....	459 36
Amount paid for satisfaction and certificates.....	894 82
Total.....	<u>\$15,304 10</u>
	8,300 11
Balance .....	<u>\$7,003 99</u>

*February.*

Amount paid to searchers .....	\$3,785 95
Amount paid to employes.....	2,040 55
Amount paid to recording clerks .....	1,776 50
Amount paid to Skidmore for coal.....	108 50
Amount paid to Wortendyke for ice .....	3 38
Amount paid to Tower for pencils.....	3 00
Amount paid to Consolidated Company for gas .....	33 07
Total.. .....	<u>\$7,750 95</u>

Amount received for searches.....	\$7,571 90
Amount received for 814 certificates to same.....	203 50
Amount received for papers recorded.....	3,802 50
Amount received for 2,416 certificates to same.....	918 08
Amount received for certified copies, etc.....	153 40
Amount received for 2,093 chattel mortgages.....	376 74
Amount received for satisfactions and certificates .....	684 38
Total.....	<u>\$13,710 50</u>
	7,750 95
Balance .....	<u>\$5,959 55</u>

*March.*

Amount paid to searchers .....	\$5,342 67
Amount paid to employes .....	2,367 40
Amount paid to recording clerks .....	2,354 65
Amount paid to Wortendyke for ice .....	3 00
Amount paid to Tower Company for rubber bands.....	1 50
Amount paid to Fox & Kelly for crash.....	3 75
Amount paid to blotters.....	1 50
Amount paid to Consolidated Company for gas .....	58 80
Amount paid to postage stamps .....	5 00
Total.....	<u>\$10,138 27</u>



Amount received for searches .....	\$10,685 34
Amount received for 1178 certificates to same .....	294 50
Amount received for papers recorded.....	5,037 30
Amount received for 3,191 certificates to same .....	1,212 58
Amount received for certified copies, etc.....	263 50
Amount received for chattel mortgages.....	464 76
Amount received for satisfactions and certificates .....	944 64

Total.....	\$18,902 62
	10,138 27

Balance .....	\$8,764 35
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*April.*

Amount paid to searches .....	\$6,199 12
Amount paid to employes.....	2,451 02
Amount paid to recording clerks .....	3,144 30
Amount paid to Wortendyke for ice .....	3 37
Amount paid to Tower Company for bands.....	4 50
Amount paid to Hopke & P. for soap.....	3 95
Amount paid to Noe's Son for cleaners materials.....	12 60
Amount paid to Gould for certificates .....	3 88
Amount paid to Partridge for stools.....	3 25
Amount paid to blotters.....	2 00
Amount paid to Mott for cuspidores.....	9 00
Amount paid to E. & R. for ribbon .....	75
Amount paid to Consolidated Company for gas .....	63 70

Total .....	\$11,901 42
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Amount received for searches.....	\$12,398 24
Amount received for 1,147 certificates to same.....	286 75
Amount received for papers recorded.....	6,698 60
Amount received for 4,105 certificates to same .....	1,559 90
Amount received for certified copies, etc .....	191 80
Amount received for 2,671 chattel mortgages .....	496 78
Amount received for satisfactions and certificates .....	1,183 54

Total .....	\$22,815 61
	11,901 42

Balance.....	\$10,914 19
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*May.*

Amount paid to searchers.....	\$5,503 91
Amount paid to employes.....	2,372 57
Amount paid to recording clerks.....	2,667 95
Amount paid to Wortendyke for ice .....	3 25
Amount paid to Everson & Reed for pads .....	80
Amount paid to postage stamps .....	5 00
Amount paid to Walter & Company for stationery .....	19 50
Amount paid to Tower Manufacturing Company for rubber bands.....	3 00
Amount paid to Consolidated Company for gas .....	41 47
Amount paid to E. & R. for repairing stamps .....	1 00
Total .....	<u><u>\$10,618 45</u></u>

Amount received for searches.....	\$11,007 82
Amount received for 892 certificates to same .....	213 00
Amount received for papers recorded.....	5,690 30
Amount received for 3,512 certificates to same .....	1,334 56
Amount received for certified copies, etc .....	162 26
Amount received for chattel mortgages .....	408 78
Amount received for satisfactions and certificates .....	1,056 22
Total .....	<u><u>\$19,944 94</u></u> <u>10,618 45</u>

Balance .....	<u><u>\$9,326 49</u></u>
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*June.*

Amount paid to searchers.....	\$4,901 83
Amount paid to employes.....	1,331 07
Amount paid to recording clerks .....	2,320 95
Amount paid to subscription.....	2 50
Amount paid to Wortendyke for ice.....	4 17
Amount paid to postage stamps .....	5 00
Total .....	<u><u>\$9,565 52</u></u>

Amount received for searchers .....	\$9,803 66
Amount received for 933 certificates to same .....	233 25
Amount received for papers recorded .....	4,959 60
Amount received for 3,172 certificates to same .....	1,205 36
Amount received for certified copies, etc.....	197 00

Amount received for 3,104 chattel mortgages .....	\$558 72
Amount received for satisfactions and certificates .....	938 48
Total .....	<u>\$17,896 07</u>
	9,565 52
Balance .....	<u><u>\$8,330 55</u></u>

Amount paid to searchers .....	\$3,945 31
Amount paid to employes .....	2,329 05
Amount paid to recording clerks .....	2,200 00
Amount paid to Gould for certificates .....	4 00
Amount paid to Tower Manufacturing Company for rubber bands .....	3 00
Amount paid to Wortendyke for ice .....	4 33
Amount paid to Consolidated Company for gas .....	31 62
Amount paid to Walter & Company for stationery .....	9 50
Amount paid to Everson & R. for repairing stamp .....	1 25
Amount paid to Consolidated Company for gas .....	7 12
Total .....	<u><u>\$8,535 18</u></u>

Amount received for searches .....	\$7,890 62
Amount received for 745 certificates to same .....	186 25
Amount received for papers recorded .....	4,687 90
Amount paid for 2,877 certificates to same .....	1,093 26
Amount received for certified copies .....	175 36
Amount received for 2,504 chattel mortgages .....	450 72
Amount received for satisfactions and certificates .....	1,056 10
Total .....	<u>\$15,540 21</u>
	8,535 18
Balance .....	<u><u>\$7,005 03</u></u>

*August.*

Amount paid to searchers .....	\$2,864 78
Amount paid to employes .....	2,085 88
Amount paid to recording clerks .....	1,529 33
Amount paid to Tucker & S. for pads .....	1 00
Amount paid to American News Company for blotters ..	3 00
Amount paid to Wortendyke & Son for ice .....	5 00
Amount paid to Tower Manufacturing Company for rubber bands .....	1 50
Amount paid to Consolidated Company for gas .....	5 75
Total .....	<u><u>\$6,496 26</u></u>

Amount received for searches .....	\$5,729 40
Amount received for 566 certificates to same .....	141 50
Amount received for papers recorded .....	3,261 40
Amount received for 2,018 certificates to same .....	766 84
Amount received for certified copies, etc .....	125 96
Amount received for 2,393 chattel mortgages .....	430 74
Amount received for satisfactions and certificates .....	619 16
Total .....	<u>\$11,075 00</u> <u>6,496 26</u>
Balance .....	<u><u>\$4,578 74</u></u>

*September.*

Amount paid to searchers .....	\$3,332 56
Amount paid to employes .....	2,121 07
Amount paid to recording clerks .....	1,617 75
Amount paid to postage stamps .....	5 00
Amount paid to Wortendyke for ice .....	5 63
Amount paid to Consolidated Company for gas .....	7 87

Total .....	<u>\$7,089 88</u>
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Amount received for searches .....	\$6,665 12
Amount received for 669 certificates to same .....	167 25
Amount received for papers recorded .....	3,449 50
Amount received for 2,136 certificates to same .....	811 68
Amount received for certified copies, etc .....	165 36
Amount received for 2,913 chattel mortgages .....	524 34
Amount received for satisfactions and certificates .....	650 14

Total .....	<u>\$12,433 39</u> <u>7,089 88</u>
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Balance .....	<u><u>\$5,343 51</u></u>
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*October.*

Amount paid to searchers .....	\$4,174 23
Amount paid to employes .....	2,249 45
Amount paid to recording clerks .....	2,058 95
Amount paid to E. & R. for stamp .....	1 00
Amount paid to St. Clair for pencils .....	1 00
Amount paid to Tower Company for rubber bands .....	3 00
Amount paid for postage stamps .....	5 00

Total .....	<u><u>\$8,492 63</u></u>
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Amount received for searches.....	\$8,348 46
Amount received for 851 certificates to same.....	212 75
Amount received for papers recorded.....	4,386 60
Amount received for 2,679 certificates to same. ....	1,018 02
Amount received for certified copies, etc.....	175 76
Amount received for 3,135 chattel mortgages... ..	567 90
Amount received for satisfactions and certificates.....	696 50

Total.....	\$15,405 99
	8,492 63

Balance.....	\$6,913 36
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*November.*

Amount paid to searchers .....	\$4,886 30
Amount paid to employes.....	2,465 04
Amount paid to recording clerks.....	2,328 95
Amount paid to Consolidated Company for gas .....	25 12
Amount paid to Noe's Son for cleaners' materials.....	3 34
Amount paid to Wortendyke for ice.....	5 63
Amount paid Walter & Company for stationery. ....	4 50
Amount paid for postage stamps.....	5 00
Amount paid to E. & R. for seal.....	1 75
Amount paid to Tower & Company for rubber bands...	1 50
Amount paid to MacDonald for coal.....	23 20

Total.....	\$9,755 75
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Amount received for searches.....	\$9,772 60
Amount received for 951 certificates to same.....	237 75
Amount received for papers recorded.....	4,959 10
Amount received for 3,029 certificates to same.....	1,151 02
Amount received for certified copies, etc.....	200 56
Amount received for 2,986 chattel mortgages, etc.....	537 48
Amount received for satisfactions and certificates.....	902 88

Total.....	\$17,761 39
	9,755 75

Balance.....	\$8,005 64
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*December.*

Amount paid to searchers .....	\$6,437 59
Amount paid to employes .....	2,420 78
Amount paid to recording clerks .....	2,544 05
Amount paid to Consolidated Company for gas .....	15 00

Amount paid to Knickerbocker Company for ice.....	\$8 83
Amount paid to Mitchell for stationery .....	4 50
Amount paid to carriers for Christmas .....	15 00
Amount paid to Consolidated Company for gas .....	41 49
Amount paid to MacDonald for coal .....	47 90
Amount paid to Townsend & Malon for counsel fees ...	250 00
Total .....	<u>\$11,785 14</u>

Amount paid for searches .....	\$12,875 18
Amount paid for 982 certificates to same .....	245 50
Amount paid for papers recorded .....	5,418 80
Amount paid for 3,292 certificates to same .....	592 56
Amount paid for certified copies, etc. ....	188 76
Amount paid for 3,078 chattel mortgages .....	554 04
Amount paid for satisfactions and certificates ..	955 16
Total .....	<u>\$20,830 00</u>
	<u>11,785 14</u>

Balance.....	<u>\$9,044 86</u>
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## RECAPITULATION.

January .....	\$8,300 11	\$15,304 10
February .....	7,750 95	13,710 50
March .....	10,138 27	18,902 62
April .....	11,901 42	22,815 61
May .....	10,618 45	19,944 94
June .....	9,565 52	17,896 07
July .....	8,535 18	15,540 21
August .....	6,496 26	11,075 00
September .....	7,089 88	12,433 39
October .....	8,492 63	15,405 99
November .....	9,755 75	17,761 39
December .....	11,785 14	20,830 00
Total .....	<u>\$110,429 56</u>	<u>\$201,619 82</u>
		<u>110,429 56</u>
Gross balance receivable .....		\$91,190 26
Balance outstanding for the term ending December 31, 1886 .....		<u>11,040 49</u>
Net amount received .....		<u><u>\$80,149 77</u></u>

STATEMENT OF AMOUNT PAID TO ASSISTANTS IN THE REGISTER'S OFFICE  
DURING THE YEAR, 1886.

James A. Hanley, deputy register .....	\$3,000 00
Lewis H. Watts, assistant deputy register .....	1,800 00
Michael Grady, tickler clerk .....	1,800 00
John Pyne, collector .....	1,800 00
Edward F. Smith, examiner .....	1,500 00
Michael F. Fitzpatrick, bookkeeper .....	1,500 00
John A. Boyle, grantee clerk .....	1,200 00
Henry W. Murphy, index clerk .....	1,200 00
Frank P. Young, index clerk .....	1,200 00
John J. Coyle, reader ... ..	1,066 64
P. H. Neeson, custodian .....	1,074 98
Philip J. Fitzgibbon, watchman .....	1,000 00
Daniel L. Coyle, map clerk .....	1,049 93
Frank Watts, index clerk .....	1,000 00
Horatio G. Molini, index clerk .....	300 00
William W. Dunlap, index clerk .....	100 00
William J. Reilly, extra clerk .....	35 50
Mrs. A. Coyle, cleaner .....	360 00
Charles Blauvelt, satisfaction clerk .....	5,291 01
William F. Loper, chattle mortgage clerk ... ..	1,101 89

*Fees paid to Searchers in the Register's Office for the year 1886.*

Stephen M. Anderson .....	\$3,896 63
William H. Bell .....	5,030 42
Warren P. Bell .....	2,507 20
George F. Brennan .....	3,577 80
Wm. E. Brinckerhoff .....	4,832 33
Edward W. DeGrove .....	1,310 38
Edward T. Egbert .....	5,353 65
Gideon Fountain .....	1,580 99
David Lennox .....	1,934 06
P. H. McDonough .....	2,339 18
Charles W. Mack .....	8,531 53
David F. O'Connor .....	3,776 96
John Pyne .....	286 55
Nelson Samson .....	4,353 79
Nelson T. Samson .....	1,789 01
A. M. Ulman .....	4,342 37

*Fees paid Recording Clerks for the year ending December 31, 1886.*

George P. Elder .....	\$277 45
Ferdinand Lieber .....	519 50

Thomas Fitzpatrick.....	\$521 65
Francis J. Thompson.....	499 15
Edward A. Carland .....	322 10
Edward J. McCauley.....	481 85
James Anthony.....	131 10
John T. MacDonald.....	320 40
Frederick H. Jones .....	35 55
Henry J. Cogan .....	885 75
Michael J. O'Rourke .....	626 50
William J. Doyle.....	467 50
Joseph Kenny.....	83 40
Luther V. Hammond.....	586 80
Edward J. Brady .....	16 50
John Moloney .....	390 30
Edward A. Collins .....	524 80
Thomas Laughlin.....	427 15
Charles Isabeau .....	85 15
Isaace N. Wortendyke.....	447 85
Bernard J. Costello .....	355 20
Theodore Wunderlich.....	857 66
Hugh Coyne.....	445 30
Edward J. Nealon.....	495 25
Jacob Feis .....	19 25
William E. Merritt.....	19 00
William J. Coffin.....	377 95
Samuel Samson.....	306 90
James J. Rogers.....	417 10
Daniel O. Dougherty.....	206 45
Hugh Brady .....	496 15
Edward L. Carey .....	46 55
Edward Hall.....	207 80
William J. Watson .....	29 60
Horatio Moloni.....	48 60
Thomas Duncan .....	26 30
Gardner H. O'Donnell.....	49 70
Frank J. Houghtalin .....	66 25
William V. Brown.....	628 00
John Gilson.....	499 60
Joseph Meehan.....	380 15
Frank Reilly .....	142 50
Jacob Moore .....	36 55
Andrew J. Kirk.....	184 55



John Murphy .....	\$264 10
Nicholas L. Fogarty .....	546 45
Bernard Fitzpatrick .....	463 30
Hugh McDonald .....	789 30
Geo. Talbot .....	569 75
Luke J. Hackett .....	783 75
John F. Sheridan .....	894 25
Jacob Weingarth .....	529 00
John F. Cramer .....	382 35
George Coghlan .....	466 95
Michael Roche .....	441 00
Patrick J. Leddy .....	670 25
John J. Morgan .....	133 85
Michael Clune .....	348 80
Charles Gilmore .....	307 50
Daniel Bostwick .....	338 65
Robert Hembold .....	14 70
John J. Donnelly .....	671 40
David T. Long .....	14 70
Arthur J. O'Leary .....	671 40
John Healy .....	580 20
Mr. Leveen ...	224 95
John P. Boyd .....	396 85
George O. Clarke .....	98 35
Edward Breeder .....	367 85
Charles J. Wiley .....	390 75
Thomas F. Daniels .....	418 00
John Mulligan .....	225 80
J. T. Oakley .....	435 90
Charles Rosenstedt .....	72 15
.....	54 20
.....	324 75
Total .....	<u>\$26,150 90</u>

ADDITIONAL STATEMENT SHOWING THE RECEIPTS AND EXPENDITURES, ON  
ACCOUNT OF CLOSING UP BUSINESS OF THE REGISTER'S OFFICE, FOR THE  
TERM ENDING DECEMBER 31, 1886.

*Expenditures.*

James A. Hanley, deputy, two month's salary .....	\$500 00
John Pyne, collector .....	150 00
Frank McNicol, examiner .....	125 00

John A. Boyle, delivery clerk. ....	\$25 00
John M. Sipple, delivery clerk. ....	63 00
Samuel Wagner, map clerk. ....	20 00
John Gilson, reader. ....	20 00
Edward A. Carland, collector. ....	42 00
Luke J. Hackett, collector. ....	43 80
Louis Suffner, collector. ....	4 00
Searchers fees. ....	219 33
Sundries, postage, etc. ....	2 29

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Total. ....	\$1,214 42
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Balance due for the term ending December 31, 1886. ....	\$11,040 49
Expenditures as above. ....	1,214 42

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Balance. ....	\$9,826 07
Bad debts by papers not disposed of. ....	216 54

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Net Balance. ....	\$9,609 53
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NEW YORK, December 31, 1886.

To Hon. FREDERICK COOK, *Secretary of State, Albany, N. Y.*:

SIR.—I herewith transmit an additional statement for the year 1889, of the amount of all sums charged or received by me for services rendered the city and county of New York in recopying mutilated libers, maps, etc., pursuant to chapter of the Laws of 1883:

Amount appropriated by board of estimate and apportionment for 1886. ....	\$32,000 00
Amount expended for 1886. ....	31,999 48

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As follows clerks, stationery, etc.:

Frank McNicol, examiner from January first, to December twenty-third. ....	\$1,467 74
Simon P. Donnelly, reader, 10 months 15 days. ....	1,048 39
William F. Daly, reader, 10 months 15 days. ....	1,048 39
Samuel Wagner, maps, 11 months 20 days. ....	1,164 51
William J. Reilly, recording, 11 months 20 days. ....	1,164 51
John R. Farley, recording, 11 months 15 days. ....	1,148 39
Patrick Brady, recording, 11 months 15 days. ....	1,148 39
Edward Kelly, recording, 11 months 15 days. ....	1,148 39
Bernard O'Gorman, Jr., recording, 11 months 15 days. ...	1,148 39

James O'Sullivan, recording, 11 months 15 days....	\$1,148 39
Andrew J. Kirk, recording, 11 months 15 days.....	1,148 39
James E. Costello, recording, 11 months 15 days.....	1,148 39
Denis J. McCarthy, recording, 11 months 15 days.....	1,148 39
Bernard Fitzsimmons, recording 10 months 15 days....	1,048 39
Frank J. Houghtalin, recording 10 months 15 days....	1,048 39
Gardner H. O'Donnel, recording 10 months 15 days ...	1,048 39
John T. Oakley, recording 10 months 15 days.....	1,048 39
A. Schmidt, recording 10 months 15 days.....	1,048 39
William J. Watson, recording 10 months 15 days.....	1,048 38
Thomas F. Duncan, index 10 months 15 days.....	1,048 39
A. Francis Cronhardt, index 9 months 15 days.....	948 39
John W. Burns, index 9 months 15 days. ....	948 39
John Mulligan, index 9 months .....	948 39
Horatio G. Molini, index 8 months.....	900 00
Thomas J. Reilly, index 6 months 12 days .....	800 00
Terrence Duffy, index 5 months 15 days.....	638 71
George P. Elder, index 4 months 15 days.....	548 39
Edward F. Reynolds, index 4 months.....	448 39
Edwin F. Treharne, index 4 months.....	400 00
Edward J. Hare, index 3 months.....	400 00
Frank Watts, 2 months.....	300 00
Thomas Dunlap, Jr., 2 months.....	200 00
Margaret Dorsey, cleaner 12 months.....	200 00
.....	360 00
Salaries.....	\$30,660 05
Thirty-one mortgage indices libers.....	775 00
Nineteen conveyances.....	475 00
Stationery .....	65 53
Fuel .....	12 00
Cleaning materials.....	8 68
Total amount expended.....	<u>\$31,996 26</u>

Unexpended balance in hands of comptroller of New York, three dollars and seventy-four cents.

The statement covers the year 1886, to wit, from January first to December thirty-first, inclusive.

Very respectfully yours.

JOHN REILLY,

*Register.*

STATE OF NEW YORK, }  
CITY AND COUNTY OF NEW YORK. }

John Reilly, being duly sworn, deposes and says, that the foregoing statement was prepared under his direction as register of the city and county of New York, that said statement exhibits the receipts and expenditures of the register's office, for the year ending December 31, 1886, and that said statement is correct.

JOHN REILLY,  
*Register.*

Sworn to before me this 10th }  
day of January, 1887. }

JAS. A. HANLEY,  
*Notary Public, City and County of New York.*

Indorsed: State of New York, office of the Secretary of State.  
Received.

STATE OF NEW YORK, }  
OFFICE OF THE SECRETARY OF STATE. } ss.:

I have compared the preceding statement with the original remaining in this office, and do hereby certify that the same is a correct transcript therefrom of the whole thereof.

Given under my hand and seal this 15th day of April, 1890.

FRANK RICE,  
*Secretary of State.*

THURSDAY MORNING, *October 16, 1890.*

The committee met pursuant to adjournment.

Present — Senators Fassett, Ahearn and McNaughton.

MICHAEL COLEMAN, being duly sworn, testified as follows:

By Mr. IVINS:

Q. Mr. Coleman, are you president of the board of taxes and assessments? A. Yes, sir.

Q. How long have you been president of that board? A. Since 1885.

Q. By whom were you appointed? A. William R. Grace.

Q. How long were you in that department prior to your appointment as president of the board? A. About sixteen years.

Q. In what capacity? A. Chief deputy.



Q. As president of the board of taxes and assessment you are a member of the board of estimate and apportionment, are you not?

A. Yes, sir.

Q. Are you also secretary of that board? A. Yes, sir.

Q. And you are a member of the armory commission? A. Yes, sir.

Q. Are you also secretary of that commission? A. Yes, sir.

Q. As a member of the board of estimate and apportionment, do you appraise real estate valuations in the case of purchase of land for the use of the board of education? A. Well, I generally look and examine nearly all the real estate that is purchased by the city for city purposes.

Q. As a member of the armory commission, do you make appraisements of real estate taken for armory purposes? A. I have purchases since 1886, one site for the Ninth Regiment, and the other site for the Seventy-first was condemned by order of the court.

Q. As president of the board of taxes and assessment, how much of your time is demanded in performing the duties of your office? A. As tax commissioner?

Q. Yes; and other offices that flow out of it by virtue of law ex officio? A. I couldn't hardly tell you now; I am employed almost every day between the hours of half-past eight and five, including Sundays.

Q. And that service has been continuous for some twenty years now? A. Over twenty years.

Q. At what time of the year does your board usually take its vacation? A. We generally lay out the vacations for the clerks and deputies about the first of July.

Q. That is because that is the lightest part of the working year, is it? A. Yes, sir; because our books are obliged to be ready to be delivered to the board of aldermen by the first Monday in July by law.

Q. Will you now describe to the committee the constitution of your office, telling the number of men in the working staff, the different classes of work done by each class of employes or subordinates? A. The number employed in the tax office is forty-five, three commissioners, one secretary, twelve real estate deputies, one chief deputy, two deputies for personal department, and twenty clerks, including one law clerk, one map, one janitor and timekeeper, one typewriter, one messenger, one surveyor and two assistants.

By Senator FASSETT:

Q. How are the commissioners appointed? A. By the mayor.

Q. Are they appointed for definite terms? A. Six years.

Q. They do not have to be confirmed by the council any more? A. Not now.

Q. Who are the other commissioners? A. Mr. Feitner and Mr. Paris.

Q. How long have they been commissioners? A. Mr. Paris was appointed by Mr. Hewitt, two years ago, in the place of Mr. Donnelly; Mr. Feitner was appointed by Mr. Edson in 1884 and reappointed by Mayor Grant; I should say this is the smallest number of any employes employed in any tax office of any city with a population of 600,000.

Q. That is your tax department has fewer employes than the tax department of any other city in this country? A. Yes; including those I have examined, Chicago, Philadelphia, Boston.

Q. Having over 600,000? A. Yes, sir.

By Mr. IVINS:

Q. Will you let me take that list you have been reading from? A. Yes, sir. [Witness hands paper to counsel.]

Q. Before going into the names will you describe generally what the duties of the commissioners are who stand at the head of this list? A. The commissioners are directed by law to take and supervise the work done in the department, to make examinations of the records, and the deputies are directed to assess, under directions, and after the books are opened on the second Monday in January, the commissioners are generally employed up to the first of May in receiving the complaints and affidavits made by those who are assessed upon the personal lists, both residents and non-residents; after the first of May, when the real estate records are closed, we then have thirty days, by law, in which to go over the complaints of all kinds; we then, generally, are busy looking after the complaints made upon the real estate and also the corporation.

By Senator FASSETT:

Q. But generally your business is to assess both real and personal property in the city limits for the purposes of taxation? A. Yes, sir; that is principally the duties of the other commissioners and that is my duty, besides attending to the other matters, that I am obliged to attend by law.

By Mr. IVINS:

Q. What are the duties of your secretary? A. He attends to all the clerical part in relation to that bureau; the banks are put under him.

Q. What bureau? A. The tax department; the banks are under

his direction in relation to receiving from each of the banks a list of their stockholders and to receive affidavits from the stockholders who can swear off their bank stock under the laws; he generally, then, extends all the tax against each and every shareholder; he keeps the records of all complaints and generally is busy doing clerical work for about ten months in the year.

Q. What is his name? A. Floyd T. Smith.

Q. How long has he been in the department? A. He was appointed by Mr. Wheeler in 1875, I think.

Q. You gave the names of your fellow commissioners? A. Yes, sir; Mr. Feitner and Mr. Paris.

Q. I want to go back to them for a minute; whom did Mr. Paris succeed? A. Mr. Edward C. Donnelly.

Q. By whom was Mr. Donnelly appointed? A. Mr. Hewitt.

Q. Are you qualified because of your experience and knowledge of the office to say whether the service was improved by the failure to reappoint Mr. Donnelly; whether the service sustained a loss by his going out of it? A. Mr. Donnelly was a very efficient officer; very efficient.

Q. Was not Mr. Donnelly one of the most efficient officers that you have ever known, from your experience in the office? A. Always reliable; thoroughly honest.

Q. Thoroughly informed? A. Thoroughly informed.

Q. Absolutely attentive to his duties? A. Absolutely attentive to his duties.

Q. Whom did Mr. Feitner succeed? A. George Vanderpoel.

Q. Now, as to your real estate deputies; describe in general terms the duty of one of these deputies? A. They are each parcelled out a number of districts; Mr. Birmingham has the first, second, third, fourth, fifth and sixth wards; Mr. Strahan has the sixteenth, eighteenth and eleventh wards; Mr. Wagner has the twentieth and twenty-first wards; Mr. Connelly has the nineteenth ward, on both sides first and second volume; Mr. Murray has the first and second volume of the twenty-second ward; Mr. Auten Reith from Eighty-sixth street to One Hundred and Fifty-fifth, East river to Sixth avenue; Mr. James D. Ames from Sixth avenue to the Hudson river, from Eighty-sixth street to One Hundred and Fifty-fifth; Henry Bracken, the twenty-fourth ward; James Degnan, the ninth, fourteenth, fifteenth and eighteenth; Mr. Hauschall, the twenty-third ward; on the eastern section, McAuen, the twenty-fourth ward; on the western section and the upper part of Manhattan Island, north of One Hundred and Fifty-fifth street.

Q. Now, the duties of any one of these deputies? A. They are obliged by law to commence their work the first of the month.

Q. What work? A. To make examinations in their districts of the values of the real estate; they are then obliged to report to the commissioners all changes made from the previous assessment, and those weekly reports are made for the purpose of letting the commissioners know how they are performing their duties; that is done up to the first of December.

Q. You mean by that that they continue to send in weekly reports from the first of September to the first of December? A. From the first Monday in September to the first of December; then they are allowed fifteen days to go over their districts to make a supplementary report in regard to any improvement that might be commenced between the first of September and the first of December.

Q. Can we readily get some samples of those reports? A. Yes, sir; they are on record; anything that you want.

Q. They cease returning those reports of which you speak, the weekly report, on the first of December; then what do they begin to do? A. They then commence to make up their record books and copy their field books, so as to open their books to the public on the second Monday in January; in the meantime, they are obliged, before that time, to make an affidavit before the justice of the Supreme Court that they have made an examination, under the usual oath, that they have examined every piece and parcel of property in their district, and made a fair and honest assessment.

Q. Now, going back to the time when they are sending in these reports between the first Monday in September and the first of December, they are at work on their field books, are they not? A. They are at work in their district on their field books every day except Wednesday; they are obliged to be in the office every Wednesday to meet whatever taxpayers might have complaints or for the alteration of anything on their map in accordance with any deed produced by parties who want to have such alterations made.

Q. Is it their practice to go through their several wards each man with his field book and assistant, and look at each piece of property in the ward? A. Go through each street in their district.

Q. And in so looking at each particular piece of property in the ward, compares the valuation which he would assess it at with the valuation which it was assessed the previous year? A. A fair ordinary valuation in accordance with the valuations of the surrounding property, and be guided by the assessment of the past year.



Q. Well, as to methods and mode of examination, we will take that up later; these weekly statements then simply report the differences as they appear, being the result of that investigation in the field?

A. Yes, sir.

Q. Then from the first of December to the second week in January, they are busily engaged? A. Writing up their records.

Q. What records? A. The records that are to be opened to the public from the second Monday in January until the thirtieth of April.

Q. What do you call those records? A. Those are the records of all the real estate in their respective districts.

By Senator FASSETT:

Q. That is a summing up? A. A summing up.

Q. Of the work they have been doing from the first of September to the first of December? A. The first of January they have got to do it; they generally get through by the fifteenth of December.

By Mr. IVINS:

Q. What are those books known as? A. They are record books; annual records of real estate.

Q. From the first of January until April, what do these twelve deputies do? A. From the second Monday in January, when the books are opened to the public up to the first of May, they are obliged to be at their desks every day to give any information to any taxpayer who would inquire or receive any complaint or application that will be made by such taxpayers for reduction of the assessments of real estate, where they think that they are unduly assessed or out of proportion to the adjacent property.

Q. Do persons complaining of assessments appeal in the first instance to the real estate deputies? A. They do; yes, sir.

Q. Now, suppose the real estate deputy were to be of the opinion that the assessment entered in his field book and transcribed in the record, was an improper, unfair or unjust assessment, would he have any power to act for the purpose of altering that? A. No, sir.

Q. Then nothing can be done in case complaint is made to one of these real estate deputies without an appeal being first made to one of the commissioners? A. We have blank applications which I will send over and get one for you that are furnished to each party that complains; he can fill that up, or it will be filled up for him and let him sign it; those are gathered together every five days; then they are entered into an application book in case any of them should be lost so that we can have a duplicate made and they are referred then after they

are recorded in the application book back to the deputy to make an investigation and to answer the complaint that is made.

Q. For the deputy to answer the complaint? A. Yes, sir.

Q. Then, in those cases the complaint to the deputy being so entered and being so called to your attention without any further act on your part, puts the deputy at once on his defence of the particular assessment that is complained against, does it? A. Yes, sir.

Q. Now, you then call up the deputy and question him in regard to that particular complaint? A. Those are all filed away, because the commissioners are busy receiving the affidavits of those on the personal record; those are filed away until the latter part of April, or after the first day of May, and then they are taken up and the deputy is called in and he has a written report on the back of the application answering the complaint that has been made; that is examined by the commissioners.

Q. The very deputy who is complained of is then the person to whom the complaint is referred in the first instance? A. Yes, sir; it is referred back to him.

Q. Now, suppose one of those deputies being complained of by a certain taxpayer for having over assessed his property, were to pay no attention to the complaint, how would it come to your notice? A. I can only tell you my experience that in ten years I might go back, I have never heard over four applications or complaints being made to the office that have been mislaid or lost.

Q. The deputy really takes the complaint by handing one of these blank papers to the party and telling him to fill it in? A. Yes, sir.

Q. Is not that about all there is of it? A. Wouldn't you like to see one.

Q. Yes; we will send for one in a minute; now, after May what do your deputies do? A. A little previous to the first of May as the work is being summed up in regard to the complaints made on real estate, we furnish each of the deputies with a book, called a receiver's book, the same size, the same number of pages, in fact the same in almost every way, for them to take an exact copy of their record-book as corrected, so that they will be enabled to make and send those receiver's books to the board of alderman upon the second Monday in July; those books are the same books that are now furnished to the comptroller whereby or where he can receive the tax and give out the tax bills and tell each individual just what they are assessed for; so we have three sets of books, a field-book, and record-book and a receiver's book.

Q. And the receiver's book is a copy of the record-book? A. Yes, sir.

Q. Corresponding exactly with the book in your department, but enabling the collector of taxes in the comptroller's office to make the collection? A. Yes, sir.

Q. When are those books sent into the board of aldermen? A. They are obliged to be sent in on the first Monday of July of each year.

By Senator FASSETT:

Q. Your department does not collect the taxes? A. No, sir; have nothing to do with receiving money there.

By Mr. IVINS:

Q. Your department is, in reality, more of an assessing department; is it not? A. Altogether.

Q. And you are the real assessors of both real and personal property for purposes of taxation in this city? A. For the purpose of taxation.

Q. And the so-called assessors have nothing to do with the assessment of either real or personal property for the purposes of taxation for the support of the city government? A. Except this to take and perform their duty in relation to making their figures about the ordinary values.

Q. No; I say the board of assessors? A. Oh, no; they have nothing to do with it; they are distinct altogether.

Q. Now, between the date in July, when these books are finished and the time the real estate deputies go into the field again, what are their duties? A. Well, we suppose, and the orders are given that they shall take hold of their field books and their maps and compare them each and every piece, and make corrections where it is necessary, and, also, to take and review their field books in regard to anything in the shape of new ownerships or new additions, or any subdivisions that might be made; there is very little to do in our office between the first Monday in July and the first Monday in September; very little to do, indeed.

Q. You say to work at their maps? A. Yes.

Q. Do they themselves make their maps? A. No, sir; we have a surveyor.

Q. You have a surveyor who makes all the maps? A. Yes, sir.

Q. Who makes the alterations in the maps? A. The surveyor.

Q. He makes those on the requisition of the deputy or of the commissioner? A. On the requisition of the owner of the property after producing a survey made by a city surveyor or the deed; no other

way; and no alterations made on any piece of property in arrears of taxes or assessments.

Q. Your maps then simply show parcels as those parcels are desired to be shown by the owners of the property? A. Ward numbers.

Q. So that if I own a block I may have it, if I so wish, divided up into five or ten or fifteen parcels? A. If it is vacant; yes.

Q. If it is vacant? A. Yes, sir.

Q. Or I may allow it to lie in one single parcel if it is vacant? A. Yes, sir.

Q. And the parcels numbers constantly do not in any sense represent the number of lots in the city? A. No.

Q. So far as improved property is concerned, each particular piece is a parcel; is it not? A. Not in all cases; mostly, though not in all cases.

Q. What would the exception be for a row? A. No; for instance, take the Domestic Sewing Machine Building, situated on the southwest corner of Fourteenth street and Broadway, that covers several different parcels owned by different individuals, where they lease it for a number of years; there we make one assessment for the entire building, but we do not wipe out the ward numbers because they are owned by different parties.

Q. Those cases are rare, are they not? A. Yes, sir; very rare compared with a hundred and seventy-five thousand pieces that we have.

Q. Generally speaking, so far as each house or building is concerned, it has a right number of its own? A. Generally.

Q. Now, is there anything on your records which indicates the ownership of the property? A. We have a name opposite each piece; whether that name is correct or not I do not know; we try and have it correct.

Q. What means do you take to secure this correctness, if possible? A. By parties coming in to inquire in relation to assessments, by asking if they are owners.

Q. If I bought a piece of property from Senator Fassett and Senator Fassett has bought it from Senator McNaughton, and he had bought it from you, it might nevertheless follow that that property would stand in your name on your books for years? A. Without anybody came down there to notify us.

Q. Until I came there and asked to have the name changed? A. Yes, sir; we do not care anything about the names; I tell my deputies, it is my instructions, never to look at a name; there is the property.

Q. And it is entirely immaterial as far as your work is concerned? A. Don't care anything about the name.



Q. There is nothing in the law that requires you to pay any attention, directly or indirectly to the question of ownership? A. Nothing at all.

Q. That is one of the reasons, is it not, that prevents the compilation of statistics from your office showing how many persons pay taxes on a certain sum and how many pay taxes on a certain other sum? A. You can't get at it in our department; you can get in the receiver's department.

Q. Can it be got in the receiver's department? A. Generally pretty correctly.

By Senator FASSETT:

Q. What is the receiver's office? A. Receiver of taxes.

Mr. IVINS.—It is a bureau in the comptroller's office.

Q. Now, we will take up these deputies? A. Mr. Birmingham, I believe, is the first I mentioned.

Q. How long has he been in the service? A. I should judge ten or twelve years.

Q. By whom was he appointed? A. I think he was appointed by Mr. Donnelly and Mr. Ashton and Mr. Vanderpoel.

Q. Do the commissioners appoint all the subordinates in the office? A. Yes, sir.

Q. They appoint them by a majority vote? A. It is by civil service.

Q. Your office is a civil service office? A. Yes, sir.

Q. And all of them subject to competitive examination.

By Mr. IVINS:

Q. That does not affect the deputies, does it? A. Yes, sir; every one.

Q. You said he had the first, second, third, fourth, fifth and sixth wards? A. Yes, sir.

Q. They are among the most important wards in the city, are they not? A. They are the most important because they vary so in relation to the style of property located in them.

Q. The most important of those wards is the first, is it not? A. The first; it has become so by the concentration of all business from all parts going in there.

Q. What are the boundaries of the first ward? A. Liberty street south.

Q. That consequently takes in all those large buildings which have recently been put up? A. Mostly all of them.

Q. Has Mr. Birmingham during this entire time been in the ward, in these six wards? A. No.

Q. Who preceded him? A. Mr. Roberts was there; he was appointed minister to Chili.

Q. Was Mr. Birmingham at that time a deputy? A. Yes, sir.

Q. Do you remember what wards Mr. Birmingham then had? A. He had the eighth, fourteenth, ninth and fifteenth.

Q. Now, who was the second man that you have named here, the second deputy? A. Strahan, I named him second; he has the eleventh, sixteenth and eighteenth; that, of course, takes in from river to river and part of an L, running down as far as Rivington street; from Rivington to Fourteenth, from the Bowery to the East river.

Q. How long has he been in the service? A. Perry was appointed about two years now; he was in the office previous for several years, between 1874 and 1881.

Q. As what? A. He was clerk first off and then a deputy, and he was removed by Ashton I think in 1881, and then reappointed two years ago through the civil service on application made by the tax board for a deputy; the cause of that application was that we had a gentleman who had charge of Mr. Perry's district by the name of Martine, and in marching up Broadway one day with the militia he was suddenly struck down, paralyzed, and we had to apply at once for a man to take and complete his work.

By Senator FASSETT:

Q. What was the cause of his removal? A. We never removed him, we reduced him; we kept him on there, kept him on the payroll while he was in the hospital, and after he came out of the hospital we found that he was not capable of going on with his duties and we reduced him to a position of deputy.

By Mr. IVINS:

Q. I thought you said Strahan? A. You asked me about Perry? A. No; I asked you about the second man you named; that is Strahan.

Senator FASSETT.—Well, we had better get this straight now.

Q. I asked you what districts Mr. Strahan had and then I asked you how long he had been there? A. Strahan has the sixteenth, eighteenth and eleventh; he has been there since 1874.

Q. Who is the third man? A. The third man is Wagner; he has charge of the twentieth and twenty-first.

Q. How long has he been there? A. He was appointed in 1869.

Q. The next one? A. Connelly; he has charge of the nineteenth ward.

Q. How long has he been there? A. He was clerk for six years, appointed in 1873, was deputy in 1879, and has been deputy ever since.

Q. Who next? A. Murray, he has charge of the twenty-second; he was appointed in 1873, in the fall; Auten Reith, twelfth ward, he was appointed in 1872; Ames was appointed in 1869; Bracken was appointed in 1873; he had charge of the twenty-third and twenty-fourth wards at the time the annexation took place; Degnan was appointed in 1885; Hanschell was a clerk for several years, and when we subdivided the twenty-fourth ward was made deputy several years ago, and when the subdivision of the twenty-fourth ward was made we made application to the civil service board and McAuen was sent down as the head of the list; that was four years ago; that is all.

Q. Now, there is allotted to each of these deputies a clerk, is there not? A. All of them have one clerk except the deputies of the twenty-third and twenty-fourth wards; they have two clerks, because they have a very large field-book and a large area to go over.

Q. What do these clerks do? A. They go out with the deputies; they have the field-books and the clerk carries the map and the tape-line, accompanies the deputies through the work in the field and assists them in helping them to make up the record-book and receiver's book while in the office.

Q. What is the salary of the deputy? A. Twenty-five hundred.

Q. What is the salary of the clerk? A. Fifteen to sixteen hundred.

Q. Now, which of these papers is the application for complaint? A. This paper is the real estate application; we furnish those. [Paper referred to marked Exhibit A of this date.]

Q. These are the applications for the reduction of assessments on personal property, are they not; one resident and the other non-resident? A. No; those are blanks altogether, resident and non-resident; there are other blanks for resident and non-resident of personal property, for those engaged in business here. [Papers referred to marked Exhibits B and C of this date.]

Q. Is there any notification sent out of the assessments that are levied on real estate? A. Only notices given through the press that the books are open for public examination and correction from the second Monday in January until the thirtieth of April.

Q. Then in that regard the system differs from the one that prevails in regard to personal property? A. It does; under the law it don't, but in regard to the custom of the department it does, because we call attention by sending out to each and every one on the personal book that they are entered for so much; if not, the people would not

come there, and we would have a large amount of arrears to collect which it would be impossible to do.

Q. Notifications are then sent for assessments of personal property, but no specific notice of assessments of real property; that is the case, is it? A. Yes, sir.

Exhibits A, B and C of this date are as follows:

EXHIBIT A — OCTOBER 16, 1890.

[N. B.— A separate application must be made for each ward.]

Page.....

*To the Commissioners of Taxes and Assessments :*

The undersigned represents that he is the owner of real estate known as No ..... street, in the ..... ward designated on the ward map as No..... in block No.....

He finds that the same has been assessed on the assessment-roll of 1888, at a valuation of \$ ..... Whereas, the same should have been, in his judgment, valued at not more than ..... to be in proportion to the assessed value of adjacent property, and in accordance with marketable value thereof.

[Here state in detail the special facts upon which the application is based.]

He therefore asks that the same may be reduced to the amount stated.

New York, .....188..

Endorsed: Block ... Page ..... Ward .....

Applications for reduction of assessed valuation of real estate known as ward No.....

.....street, asessed at..... 188..

New York.....188..

The assessed valuation of the property referred to in this petition is hereby fixed at \$ .....

*Commissioner of Taxes and Assessments.*



## EXHIBIT — OCTOBER 16, 1890.

## RESIDENT.

STATE OF NEW YORK, }  
 CITY OF NEW YORK. } ss.:

....., being duly sworn, deposes and says, that on the second Monday of January, 1889, he was the owner of the following described shares of bank stock:

Shares.	Banks.	Assessed value.
.....	.....	.....
.....	.....	.....
.....	.....	.....

Shares in all assessed at a total value of \$.....

That the full value of all personal property, exclusive of said bank shares, owned by deponent—and not exempt by law from taxation—on the second Monday of January, 1889, did not exceed \$.....; that the just debts owing by deponent on said date amounted to \$....., and that no portion of such debts has been deducted from the assessment of any personal property of the deponent other than said bank shares or has been used as an offset in the adjustment of any assessment for personal property whether in this or in any other county or State for the year 1889.

Subscribed and sworn to before me, }  
 this .... day of ....., 1889. }

.....,  
*Commissioner of Taxes and Assessments.*

## EXHIBIT — OCTOBER 16, 1890.

## NONRESIDENT.

STATE OF NEW YORK, }  
 CITY OF NEW YORK. } ss.:

....., being duly sworn, deposes and says, that on the second Monday of January, 1889, he resided in the county of ....., State of ....., and was the owner of the following described shares:

Shares.	Banks.	Assessed value.
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....

Shares in all, assessed at a total value of \$.....

That the debts due by..... on the second Monday of January, 1889, amounted to \$....., exclusive of the portion of such debts which has been used as an offset in the adjustment of any other assessment for personal property, whether in this or any other county or State, for the year 1889.

Subscribed and sworn before me, this }  
 .... day of....., 1889. }

.....  
*Commissioner of Taxes and Assessments.*

Q. Now, you have one chief deputy; who is he? A. Mr. Bell.

Q. Is the general executive officer subject to the commissioners?

A. Subject to the commissioners—the general executive officer—in relation to most of the real estate, but I utilize him, because I make him look after things in relation to the armory board; he is a clerk of the armory board; the armory board consists of commissioners without any salary; we are not allowed anything for stationery or ink, but we manage to get along.

Q. How long has Mr. Bell been in the department? A. I appointed him when I was made commissioner, because I have known him for twenty years.

Q. What was his business prior to that time? A. He served his time in the Morgan Iron Works; he was a machinist and then became a draftsman, and we needed such men in the office.

Q. You have one deputy for personal property; who is he? A. Mr. Bell is the deputy for the personal department.

Q. You have on your memorandum one chief deputy and one deputy for personal property? A. That is Mr. Cadwell; he was appointed in 1864, I think.

Q. What are his duties? A. Supervising the corporation; looking after the personal department.

Q. Twenty clerks, including law clerk? A. Yes, sir.

Q. What does the law clerk do? A. He looks after all bills while the Legislature is in session and calls the attention of the commissioners to anything that might effect the local government; he helps the secretary and files all the papers and assists in the personal department whenever we are short of help or crowded.

Q. Who is the law clerk? A. Taggart; he was one of the chief clerks under Mr. Hewitt, and Mr. Hewitt found him a very valuable man, and we were short of a man and he was recommended.

Q. Is he a lawyer? A. He is a lawyer; yes, sir.

Q. Is he not in any other business? A. Not that I know of; I believe he was connected with the *Evening News*, but whether he is now or not, I don't know; I know he is a very attentive man, and he is there during the hours between 9 and 4 every day.

Q. One map clerk; who is he? A. The map clerk is a man named — there are two men that divide that responsibility; one is Connor, and the other is an old Irishman, who has been there for some time; I know his name very well, but can't just think of it; Barney Riley.

Q. What do the map clerks do? A. They take the maps out of the safe every morning and lay them on the counters, and as any taxpayer comes in and wants any reduction, or if there are any alterations he wants to have made, they go to the surveyor with them, and they generally look after the custody of the books, records and maps.

Q. What are they paid? A. One thousand two hundred and \$1,000, I believe.

Q. They are not skilled employes at all, are they? A. No; Connor is a very good, intelligent man, a very well educated man; Riley is not; Riley was there several years before I was made commissioner.

Q. Is he intelligent enough to do his work? A. Oh, yes; we use him as a messenger, and we use him for everything.

Q. One janitor and time-keeper; what do you pay him? A. Well, he is the same one; Connor does that; the work is divided between those two men, time-keeper, custodian, janitor, messenger; we have two men for all that work.

Q. Two assistants; what is meant by that? A. Assistants for our surveyor.

Q. Well, you say here two assistants? A. That is the surveyor's department; there are two; the two are obliged to keep renewing the old maps; the maps are not in a very good state of preservation; they are used a great deal, and they need to be renewed very often; any complaints that are made in regard to large plots of land up town, they are obliged to go there and make alterations.

Q. Henry W. Vogel I find on your pay-roll as your surveyor? A. Yes, sir.

Q. How long has he been surveyor? A. Well, I had him appointed in place of Mr. Black; Mr. Black had been there for a good many years, and we wanted most of the work done in the surveyor's department in the twenty-third and twenty-fourth wards, and I found that Vogel had done most of the work in the park department, and so I asked him to come over and do the work for us, and so I had him appointed in place of Mr. Black; I did not know who he was at the time; he was recommended very strongly.

Q. Is this one of the field-books [referring to book]? A. That is a map.

[The field-books are not produced, either being in the field at present, or being locked up, each deputy being responsible for his own field-book.]

Q. The record of assessments is a fac simile of the field-book, except that the latter is in ink, the former being in pencil; that is correct, is it? A. Yes, sir; all being in pencil except the ward numbers, the ward numbers being always in ink.

Q. Now, I produce record of assessments in the eighth ward, 1890; I turn to page 84, entitled "Spring street, south side;" the first column is, owner or occupant, description of property; first column, size of lot, second column, size of house, third column, stories high, fourth column, houses on lot [meaning number of houses on lot,] the next column is the street number, the next column the ward number the next column value of the real estate, the next column corrected amount, the last column remarks; now there are certain red figures in the remarks column; the red marks in the remarks column are references to maps; is that correct? A. Our indexes for pages on maps.

Q. The size of lot is entered here; how is that determined? A. By the sizes given on the map, taken from the production of the deed from time to time.

Q. Under the column "size of houses," I find the word "covered;" that means that the entire parcel is covered? A. The entire parcel.

Q. I find opposite the name J. Redmund, the size of lot to be twenty by twenty-five? A. Yes, sir.

Q. Then the size of house, twenty by forty-eight, showing what part of the lot is covered by the building? A. Showing that the rear part.

Q. Now, in expending the value of real estate, as in this specific case of J. Redmund, which is No. 330 Spring street, the extension \$6,500 is made? A. Yes, sir.

Q. That covers both land and buildings? A. Land and buildings; the ordinary marketable value of the property.

Q. Now, in reaching this valuation, is a separate valuation first made of the lot and then a valuation of the building on the lot? A. Not generally.

Q. The true valuations are made together? A. They are both combined.

Q. Is there any system in the office whereby valuations in any cases are arrived at first by determining the value of the land and then by determining the value of the buildings on the land? A. Not for assessment purposes.



By Senator FASSETT:

Q. Is this column, "value of real estate," supposed to contain a statement of the full value of the property or its assessed value? A. The assessed value.

Q. What ratio does that stand to the market value? A. There is a question as to that, Senator; I claim that in nearly all cases our rates on the ordinarily marketable value of property, where there is no object for the party to specially hold the property; that the valuation is eighty per cent; this is so in most all cases; there are some cases above and some below that.

Mr. IVINS.—That will have to be taken up later. That is all technical matter at present.

By Mr. IVINS:

Q. Now, I have a book which is marked, "Record of applications for reduction of taxes, 1889, 1890;" this is the book in which applications for reduction that you have referred to are entered? A. Yes, sir.

Q. That book shows in the first column, the date; second column, name; third column, street or avenue, in which the number is given as well as the name, or number of the street and avenue; ward number; the assessed valuation, that is, the valuation at which the property is already assessed when complaint is made; the next column shows the amount of reduction claimed, the next column shows corrected valuation; now, I find here a series of entries in that column in red ink; the letter "C," which is opposite the first three entries on this page, stands for what? A. Confirmed the original assessment.

Q. Opposite the fourth column, I find that the assessed valuation was \$6,500, the reduction claim was \$2,000, and I find the corrected valuation written \$6,000? A. Five hundred dollars was taken off.

Q. No memorandum is made of the amount of reduction allowed, except so far as it appears by a comparison of these two columns? A. That you will find upon the blank application.

Q. Now, in what form will you find this on the blank application? A. That application is recorded and put away, and upon the back of the application is marked \$5,000, and the commissioners name is attached to it.

Q. What commissioner's name? A. Well, my name is there.

Q. Does it contain names of all the commissioners or the name of any one commissioner? A. Well, I do not know about all three; I know mine is there.

Q. Well, is that reduction the act of the board or the act of the individual commissioners? A. Well, I suppose I make that reduction myself.

Q. What is the practice, that is what I want to get at; are these reductions theoretically the act of the board or the individual commissioner, or practically the act of the board or the individual commissioner? A. They have been the customary act of the board.

Q. But any commissioner may make a reduction? A. And show it to the other commissioners.

Q. And if the other commissioner confirms it, that becomes the act of the board? A. Yes; two out of three.

Q. As a matter of practice, are these reductions shown by one commissioner to the other? A. They are handed in bunches after one commissioner acts on them to the other commissioner, because they would not be legal unless signed by more than one.

Q. It is a rule that they are signed by more than one commissioner? A. As a rule they are.

Q. Do you suppose there are any cases where they are not signed by commissioners? A. I rather think not.

Q. If there was, would it be a case of accident? A. Yes, sir.

Q. I find the date of decision marked in here; that is the date of the decision of the original commissioner in the first instance? A. In the first instance.

Q. In other words, it is not the date of the legal act of the board as a board? A. No, sir.

Mr. IVINS.—Now, I show the committee the map book in order to show the manner in which these maps are kept. [Producing book.] This is the map book of the fifteenth ward; the first map is an outline map of the ward, which is an index page for the maps which follow the index page, and shows that map 1 includes the blocks between Norwalk street, Division street and Hester street; map 1 shows those; then it shows the number of parcels.

Q. Now describe to us what these numbers are; the numbers in red ink are the ward numbers? A. Yes, sir.

Q. The numbers in black ink are the surveyor's numbers? A. The sizes.

Q. Now, where is the building shown on those? A. The building is not shown.

Q. That is because there are no buildings? A. Oh, no; the buildings are examined by the deputy, and then the sizes of the buildings are put on the record.

Q. The size of the building does not appear on the map, nor the class or character of the building? A. No, sir.

Q. You have some map for the guidance of the commissioners that contains that information? A. Insurance maps.

Q. What are insurance maps? A. They are maps found in all the insurance companies in the city.

Q. The insurance companies then take your maps as a basis? A. Yes, sir.

Q. And for their own use mark the character, size and style of the building on the map? A. Yes, sir.

Q. And then you have duplicates of the insurance maps? A. We have one complete set collected each three months.

Q. By whom are these insurance maps kept? A. They are kept by the chief deputy and furnished by Ferras and Brown.

Q. Anyone can buy them? A. Anyone can buy them.

Q. The red numbers, which are the ward numbers, you say are never changed? A. They are never changed without the production of the deed upon application made by the owner of the property.

Q. Upon application of the owner? A. Upon application of the owner; for instance if two pieces are covered by one building, provided the property was free and clear, the numbers could be changed.

Q. On the other hand, if the owner took three of those lots and put up four buildings and wanted four numbers instead of three you would subdivide it? A. Then we would subdivide it.

Q. What record do you keep of ward numbers? A. We do not keep any record of ward numbers except the record made here

Q. I have here "new buildings and alterations, 1889" [producing book]; is this the book to which you referred as the book in which entries have to be made showing the changes in assessments? A. All new buildings and alterations of every kind and description are recorded upon this book.

Q. The book being divided first into wards, and then in each ward there is a column for street or avenue, new buildings or alterations, showing the character of the new building, or the character of the alteration, showing the location of the building, showing the cost of the alteration or the new building? A. And the ward numbers on which the new buildings are.

Q. Now how do you arrive at the cost? A. We get that from the application made by the owner to the building department of whatever the cost of the new buildings or alterations will be.

Q. Every person altering or building in the city has to file with the building department not only a statement of the proposed alteration or building, but an estimate of the cost? A. An estimate of the cost.

Q. And then these costs are on those estimates and not on actual costs? A. They are placed there on the owners estimate, subject to our examination when the work is done.

Q. Do you ever make such examination when the work is done?  
A. Three times during the year.

Q. That is, you do not mean to say that you examine each building three times? A. We watch the progress of that work.

By Senator FASSETT:

Q. Is the amount of cost, as thus developed, added to the amount of assessment? A. Not in all cases.

Q. Well, what are the exceptions? A. If a gentleman wants to order a tenement-house into a store, and tears out a lot of partitions and rebuilds it all over again, it might cost him \$4,000 or \$5,000, still it does not add that much to the value of the building at all; if a man has to put on a new roof—

Q. In case of repairs and alteration you only add what you think has been added to the merchantable value of the buildings? A. To the market value of the buildings.

Q. In case of new building, is the amount added to the previous assessment? A. Not in all cases; if there was a private house in a tenement location, and there was a depreciation in value for several years, and they had been assessed a certain amount, and they would tear down that building and put up a tenement-house in its place, we could not assess the full value of the tenement-house, because we would have to deduct what we had already assessed the private house for.

Q. But where new buildings are placed upon a lot? A. Then we take the marketable value of the buildings and the land.

Q. Do you determine that by the application that is filed with the building department? A. That is one of the elements to be considered; if a man has made an honest application, we are guided considerably by it; if we find that he has not made an honest application, we are not guided at all by it.

Q. Do you ever assess a building for less than the amount on the application handed in to the building department? A. We find very often that a man puts up a house in an isolated neighborhood where there is no travel or no improvements, he puts up a building there, and we do not attempt to assess it at the cost of the new improvement.

Mr. IVINS.—The assessments for this present year are very much in excess of the assessments for last year? A. Yes, sir; both on the real and personal property.

Senator FASSETT.—What do you mean by that?

Mr. IVINS.—The aggregate of assessed valuations for the purpose of taxation. Now, I have here a statement which I will prove by Mr.



Tate when he comes, but which can be taken, as proved already, because it is a transcript from the books; I will take this for the purpose of asking the commissioner a few questions on that point.

Q. Now the total assessed valuations of real estate for purposes of taxation in this city in the year 1880 were \$942,571,690; now, what was the total assessed valuation in 1881?

Senator FASSETT.—That was only the real estate valuation.

Mr. IVINS.—I am only taking real estate valuations; we have not touched personalties in any way.

Q. The assessed valuation for that year was \$976,735,000, being an increase of \$34,164,000? A. Yes, sir.

Q. What was the total assessed valuation of real estate in the year 1882? A. One billion thirty-five million two hundred and three thousand eight hundred and sixteen dollars.

Q. Being an increase of \$58,000,000? A. Whatever it is.

Senator FASSETT.—About that.

Q. What was the total valuation for 1883? A. One billion seventy-nine million one hundred and thirty thousand six hundred and ninety dollars.

Q. That was an increase of \$43,926,000 over 1882? A. Yes, sir.

Q. What was the total valuation for 1884? A. One billion one hundred and nineteen million seven hundred and sixty-one thousand five hundred and ninety-seven dollars.

Q. That was an increase of \$40,630,000, was it not, over 1883? A. Whatever it is.

Q. What was the valuation for 1885? A. One billion one hundred and sixty-eight million four hundred and forty-three thousand one hundred and thirty-seven dollars.

Q. It was an increase of \$48,681,000? A. Whatever it is.

Q. Eighteen hundred and eighty-six? A. One billion two hundred and three million nine hundred and forty-one thousand and sixty-five dollars.

Q. Which was an increase of \$35,497,000? A. Yes.

Q. Eighteen hundred and eighty-seven? A. One billion two hundred and fifty-four million four hundred and ninety-one thousand eight hundred and forty-nine dollars.

Q. Which was an increase of \$50,550,000? A. Yes.

Q. Eighteen hundred and eighty-eight? A. One billion three hundred and two million eight hundred and eighteen thousand eight hundred and seventy-nine dollars.

Q. Which was an increase of \$48,327,000? A. Yes.

Q. Eighteen hundred and eighty-nine? A. One billion three hun-

dred and thirty-one million five hundred and seventy-eight thousand two hundred and ninety-one dollars.

Q. Now, will you tell us 1890? A. One billion three hundred and ninety-eight million two hundred and ninety thousand and seven dollars.

Q. Now, what was the increase in real estate valuation in the year 1889 over the year 1888? A. I have not figured it.

Senator FASSETT.—It was about \$28,000,000.

The WITNESS.—It was somewhere around \$28,000,000; these figures are right. [Referring to paper.]

Q. I find by reference to statements made in the comptroller's office that the total increase in valuation for 1889 was \$93,139,277; does that include the increase in personalty as well as realty? A. Personalty and corporations.

Q. As well as realty? A. As well as realty; there was about \$60,000,000, I think, on realty; the balance was upon corporations and real estate; there was about \$67,000,000 upon personal and about \$26,000,000 upon corporations; the balance on real estate.

Q. Now, the increase on realty was \$28,759,000 in 1889 over 1888 was it not? A. Yes.

Q. And in 1890, over 1889, it was \$66,711,000? A. About that.

Q. Now, the total assessment in 1890 for real estate purposes is shown by these figures, which we have made to be \$1,398,000,000, which is a net increase during the past ten years of \$455,000,000? A. I suppose that is right; I have not figured it.

Q. I will prove that when I prove the tables; being an increase of \$455,000,000 in real estate values according to your assessments during the past ten years? A. Yes.

Q. Of which \$455,000,000 about \$95,000,000 appears to be the increase during the last two years? A. Pretty near that; yes.

Q. Ninety-five million dollars increase in real estate values in the last two years out of a total increase in the last ten years of \$455,000,000?

Senator FASSETT.—Just about \$95,000,000.

Q. Of this total increase of \$455,000,000 in the last ten years then, twenty per cent has been made in the last two years? A. Yes.

Q. Well, now will you explain to the committee how it is that twenty per cent of the entire increase for ten years appears to have accrued, during the past two years; is that corresponding with any actual increase in values? A. Well, that can be explained.

Q. Explain it, please? A. For the past several years improvements have been going on steadily north of Fifty-ninth street upon the west

side, and north of One Hundred and Sixteenth street, upon both sides of the city, and while they were going on gradually for several years, about three years ago the fever took in a lot of new builders, speculators and men who generally see what is going to take place ahead, who jumped in and bought large plots of land on the west side where the parks were being laid out and improved, and as they found customers taking their property as fast as they improved it, it encouraged them to buy more and about two years ago the entire west side north of Fifty-ninth street was almost one mass of building materials, and upon every block was started new improvements.

Q. That is what is known as the nineteenth ward, is it not? A. The twenty-second ward; the nineteenth ward has been lying dead for several years.

Q. I find that the increase in valuation in 1890, over 1889, in that ward appears from your books to be \$6,979,000? A. In what ward?

Q. The twenty-second? A. The twenty-second ward, \$6,000,000; yes, sir.

Q. That was over 1889? A. Yes, sir.

Q. And in 1889, the increase over 1888, was \$4,341,000? A. Yes, sir.

Q. And in 1888, the increase over 1887, was \$8,605,000? A. Yes, sir; that is the year they started in there.

Q. And in 1887, the increase over 1886, was \$9,856,000; now what was the year they started in? A. They started in three or four years ago, just about that time.

Q. Let us refer to the west side north of Fifty-ninth street; what ward is that? A. The twenty-second.

Q. Now, we find that the increase in 1890, over the assessments of 1889, was not so large in that ward as the increase in 1887 over the assessments of 1886? A. That is very easily accounted for, for this reason that in 1885, 1886 and 1887, they had almost monopolized the west side west of the park, and in 1889 and 1890, they were obliged to go further up and strike into the twelfth ward to get into a new field for operations.

Q. Then the fact remains that this increase of \$95,000,000, which is twenty per cent of the total increase for the last ten years, and which increase of \$95,000,000 has occurred within the last two years, is not to be accounted for in any way by growth or development in the twenty-second ward, because the increase for the last two years in the forty-second ward is not so large as the increase was for the years 1887 and 1888? A. No; it is going further up now.

Q. Now let us take the next ward north? A. The twelfth ward.

Q. What are its boundaries? A. North of Eighty-sixth street by

the Harlem river on the east side, and the Hudson on the west, up to Spuyten Duyvil.

Q. Going right across the entire city? A. Yes, sir.

Q. Taking in the entire city north of Eighty-sixth street? A. Yes, sir; up to the Kingsbridge road.

Mr. IVINS — Now, I will put on the record here the increases during the last ten years in that ward. I will give them in round figures for the present purposes. They will appear accurately when put in in detail.

Q. The increase in 1881 was ten and one-half millions? A. In that ward?

Q. Yes. A. Yes.

Q. The increase in 1882 was \$11,800,000? A. Yes.

Q. The increase in 1883 was \$6,000,000? A. Yes.

Q. The increase in 1884 was eleven and three-quarter millions, the increase in 1885 was six and three-quarter millions, the increase in 1886 was 12,000,000, the increase in 1887 was 24,000,000, the increase in 1888 was eighteen and one-quarter millions, the increase in 1889 was eleven and three-quarter millions, and the increase in 1890 was 20,000,000; it appears, then, that the increase of 20,000,000 in 1889 was not materially larger than the increase of 18,000,000 in 1888? A. Oh, no; I will have to explain to you there, in relation to the twelfth ward, and also in relation to parts of the twenty-second ward, if you go back ten years; if that property was reachable by rapid transit, instead of the increase being \$20,000,000 the increase would be \$50,000,000; there is an increase in one year, and there is then a relapse, and you will find that the great increase in one, and the small increase in the next year, is because they build too many buildings; those lots are mostly improved by speculators who buy large blocks and improve them all at once; very few individual owners go in there and build; in regard to the development of the north part of New York, we are suffering severely because we can not reach it, and we want to reach it.

Q. We are suffering severely for want of rapid transit? A. If you people will take a look around the city instead of investigating these small matters —

Q. Do you think this is a small matter; this increase? A. The increase would be \$225,000,000, provided we had proper accommodations.

Q. I find that the increase in the years 1887 and 1888 aggregate \$42,000,000; I find that the increase in the years 1889 and 1890, in this particular ward, only aggregates \$31,000,000? A. That is all right.



Q. That is all right? A. Certainly.

Q. Very well; then the increase in this particular ward during these last two years does not in any sense account for the fact that the increase during the past two years has been twenty per cent of the total increase of the past ten years? A. Because there have been other increases right throughout the city.

Q. That is what I want to get at; but we have taken two now of the rapidly developing and improving districts? A. The most improving.

Q. And we find that during the past two years \$95,000,000 out of \$445,000,000 of increase has occurred, nevertheless, we find that that is not due to the increase in the twenty-second ward because the increase during the past two years has not been so large in the second ward as it was during the preceding two years? A. No; the increase has been more distributed during the past few years.

Q. Now, we find in the same way that this exceptional increase during the past two years is not accounted for by an increase in the twelfth ward, because the increase in 1887 and 1888 in the twelfth ward was larger than in 1889? A. Yes.

Q. What is the other most rapidly developing ward in the city? A. As far as the costs of improvements are concerned, the chances are that the first ward is the one, provided we could assess the new improvements as finished, it would show that there is more money being spent there in regard to new buildings but they go on so slowly that we have to assess them in progress until such times as they are finished, because it would be a hardship to assess those persons, to assess the buildings at the full value without them receiving any benefit from their property.

Q. Now, I find that the aggregate increase in the first ward for the years 1888 and 1887 was about eight and one-half millions? A. Yes.

Q. Whereas, for the years 1889 and 1890, it was only eight and three-quarter millions? A. Yes.

Q. Then, that ward, which is the third most rapidly developing ward— A. It was then.

Q. [Continuing.] Does not account for this exceptional increase? A. No; because at that time, three years ago, they were improving along Wall street, and there were very large buildings belonging to corporations, the Standard Oil Company, the Equitable building and large pieces of property along the line of Cedar and Pine, and other buildings; they were being finished, and they were assessed, and it made a very large increase in that ward; outside of all new buildings, the concentration of business there and the terminus of the rapid

transit roads all being there, all this had its effect; and then a great many people from Jersey and Brooklyn, who were obliged to live out of the city are hiring offices down there, and people who had old buildings found it to their advantage to build new ones for the purpose of competing with the others, and therefore the increase in 1887 and 1888, and for several years before that, was very large.

Q. Now, the aggregate increase for the entire city during the years 1887 and 1888, was \$98,000,000? A. Yes, sir.

Q. The aggregate increase for the entire city during the years 1889 and 1890 was \$95,000,000; now, we will take the first ward; the increase in the first ward during the first period of 1887 and 1888 was more than twice as great as the increase in the first ward has been during these past three years? A. Yes; I can tell you the reason why.

Q. I do not care to have the reason why? A. Oh, no; I must tell you the reason why.

Q. Well, then tell me if you must? A. I will tell you; in 1886 and 1887 the Mutual finished their building, and it took up the entire block, and that compelled alterations all around Liberty and Nassau streets; the extension of the Mills building; Central Trust Company was finished that year.

Senator FASSETT.—Quite a number of those big buildings came to completion that year?

The WITNESS.—Yes, sir.

Q. The fact is there was very much greater development those two years, 1887 and 1888? A. In the finishing of new buildings.

Q. Bringing those new properties within the field of assessment? A. Yes.

Q. More than there has been during the past two years? A. Yes.

Q. Then, so far as the first ward is concerned, this very large increase of \$95,000,000 is not due to increase in the first ward? A. Only partly.

Q. I mean as compared with the increase for the years 1887 and 1888; not at all, is it? A. The ratio; we have to change as we find the property; next year the third ward may show an increase on the completion of the large buildings there; all property in the second ward is changing and increasing in value, except along the line of the railroad.

Q. What is the boundary of the second ward? A. Liberty, John, Fulton, Spruce streets, Broadway and the river.

Q. What was the increase in the second ward in 1887 over 1886? A. I did not bring that.

Q. Have you not got that here? A. No; I only brought the last year of the assessment; it is all here, though, in detail [referring to paper]; you can get it from one of the reports.

Q. The increase in 1887 was \$199,200? A. Yes.

Q. Was there not a decrease there of \$71,000 in '88? A. In regards to that, after the books had been closed, perhaps may be the corrected valuation showed that we did find that the property was over-assessed, and made a decrease from the previous year of \$71,000; that is so.

Q. The increase in 1889 was \$564,000? A. That might be.

Q. And the increase in '90 again was \$622,000? A. Yes, sir.

Q. Now, will you tell us how it happens that there is an increase of about a million two hundred thousand in the last two years, while there was a decrease in '88 over '87 of 71,000? A. That is very easy explained indeed; the property in the first ward has become so valuable in regards to the purchases there, and held by large owners and owners who don't sell real estate, and controlled by corporations, that those who want to work upon the border of it, and get as near as possible, are obliged to go on the second and third ward; that has only taken place this last two years; they are obliged to go as near to the center as they possibly can without being damaged for it, and the consequence is, the second ward is commencing to feel the effects of it, and the third ward is commencing to feel the effects of it, and so it will continue, as those wards are taken and controlled by large owners and property owners, and corporations, and rich people who don't sell real estate, which we have lots of them, same as the Hoffmans, the Goelets, the Armstrongs and the Astors and Lorilards, and all those people I can name; there is lots of people here who keep purchasing from time to time, and who never sell.

Q. What is the third ward? A. Its boundaries are Liberty, Read, Broadway and the river.

Q. The increase in the last two years in that ward appears to be about double what the increase was during the preceding two years? A. Yes; same reasons exactly.

Q. What are the boundaries of the fourth ward? A. They come in Spruce, Catharine, Chatham Square or Park Row to the river.

Q. Why is it that the increase during the past two years in that ward is about double what the increase was in the two preceding years in the same ward? A. Well, the opening of the bridge, which is, of course, ancient history now, but at the same time the advancement of property right along the line of the bridge there, and opening up on Park Row, the new World Building, the Times Building

and the Potter Building, and the concentration of all large offices down there, has had its effect upon Park Row, and property has advanced there very rapidly within the past two years; large manufactories are getting in around Rose street, and property is advancing so that we are obliged to take notice of it.

Q. Now, I find that the increase has been considerably larger in the fifth ward in the last two years, than it was in the preceding two years? A. Yes.

Q. Well, why is it that there has been a larger increase in the fifth ward in the last two years, as compared with the preceding two years?

A. The opening up and paving, and improving along the line of Hudson and West Broadway, the concentration of the grocery business — Leggett's, Thurber's, and those people who are obliged to follow that large trade have improved there; there have been several exchanges opened there and large buildings around St. John's depot; although land has improved, the buildings there have depreciated, but the water fronts and piers have become very valuable and there mostly the increase has gone on; we find that the water fronts are being controlled every year by parties who will pay more for them than almost any private party can afford to pay, and upon those values we are obliged to follow the assessments; that has been mostly in the fifth ward this last two years.

Q. Now, in the sixth ward I find that the increase for the past two years is only about half as large as the increase for the preceding two years, was it? A. Yes.

Q. Why is that? A. Well, the sixth ward is stationary this last two years; the agitation of the improvement along the line of Elm street and Crosby street which has been before the board of street openings for the past two years, has kind of stagnated things there so that people are afraid to build or improve for fear they won't be on a proper grade; we couldn't take and tax their property very heavily because they were in an uncertain state.

Q. Now, in the seventh ward I find that the increase for the years 1887 and 1888 was only \$834,000, but during the last two years that the increase over and above that \$834,000 has been \$2,570,000? A. Yes; a strange thing.

Q. That shows one of the most remarkable advancements in the whole list, does it not? A. Yes, sir; it is a very queer thing.

Q. Why is it? A. The new mode of improving the tenement houses in tenement locations, allowed by the board of health to be built eight foot deep, four families upon a floor with a stairway in the center, has encouraged a class of people over there, Hebrews and Bohemians and



Germans to vie with one another in the relations to the purchase of ground where old buildings were on, and there, to the great surprise of everybody, ground has advanced twenty-five to sixty per cent within the last three years, and the improvements over there would almost carry out the increase that we made, although I was not fully in accord with that.

Q. You were not fully in accord with it? A. No, sir; I was not.

Q. Just state what your position was with regard to it? A. Well, I felt as if perhaps maybe that the owners of property ought to have been treated a little more leniently; it was occupied by a poorer class of people, who depreciate property very rapidly, and without that a person has some experience with them, they are to take and be guided by the sales that are made, which, in a great many cases are false, or where there is very small cash; I protested, to a certain extent, against that increase there; I did not feel as if it was justified.

Q. I find that the increase in that ward in the last ten years has only been \$4,244,000 but of which sum \$2,570,000 is the increase for the past two years? A. A great deal of that was new improvements; there was a great deal of new improvements, a lot of old houses torn down, and more than two-thirds of that increase was for new improvements, but still, for all that, it was, I thought, rather pressing them.

Q. Generally speaking, have real estate values in the seventh ward advanced as much in the last two years as real estate values have advanced in the nineteenth, twenty-second and twelfth wards? A. Oh, they have advanced a good deal more than they have in the nineteenth, but not advanced as much as they have in the twenty-second or twelfth.

Q. And although they have not advanced as much as they have in the twenty-second or twelfth, the ratio of increase on the assessment list appears to be very much larger; is that the fact? A. Well, they are larger because, perhaps, may be they were assessed a little below what they ought to have been assessed, but now I feel as if they had been pressed a little too hard; I rather protested against that.

Q. How is your protest recorded? A. Well, I called the matter up several times; we had no power to direct the deputy to assess below a fair, ordinary marketable value; we could only recommend; and I wrote — the last thing I done I wrote a letter, because you can read the letter; I took a copy of it yesterday; I didn't know at the time I wrote the letter — [presenting letter to counsel].

Q. Did the writing of this letter grow out of the assessments in the seventh ward or grow out of the assessments generally? A. Well, you will see; I am pretty busy at that time of year.

Mr. Ivins read the letter referred to as follows:

“DEPARTMENT OF TAXES AND ASSESSMENTS,  
COMMISSIONERS' OFFICE,  
STAATZ ZEITUNG BUILDING, TRYON ROW,  
NEW YORK, *December 18, 1889.* }

*Commissioners Michael Coleman, president, Thomas L. Feitner, Edward L. Parris:*

(Copy.)

MR. BELL.—On account of the numerous other business engagements that I had to attend to since the provisional estimates have been passed upon, and in getting ready for the final estimates, also in work appertaining to the finishing of the Eighth and Twenty-second regiment armories, I have been unable to give as much time as I would like to, to the details of this department. This morning in going over the reports of the deputies, I find that the increase made in the seventh, tenth, eleventh, thirteenth and seventeenth wards should be especially re-examined, as, in my judgment, this species of property should be treated with great leniency, as it is occupied mostly by the poorer class of tenants, and is subject to rapid depreciation.

I think the deputies' increase should be somewhat modified before the opening of the books, as to let the property remain at the proposed valuation of the deputies for the coming year would, in my opinion, be great hardship upon the owners of such real estate.

I have called the attention of Mr. Birmingham to the concentration of large and important buildings being erected in the lower part of the city to be occupied by corporations, and also to the rapid increase of land surrounding them; I have also called the attention of Mr. Degan to the assessments of his district, especially those parts of the fifteenth ward in the line of business moving upwards; also, to the water fronts and that property surrounding the new market in the ninth ward; I have also called attention to Dr. Ames and Mr. McAuen of the improvements in their districts on the west side, and to that section opened up by the finishing of the new bridge.

I wish you\* would see that Mr. Murray is following up closely the buildings in progress, and also examine particularly that section by and between sixty-sixth and Eighty-sixth street.

I think Broadway, between Seventeenth street and Forty-second street, should be looked after.

Sales along the line of Sixth avenue should not be taken as a criterion in all cases as the basis on which the deputies should act. Certain sales have been made and very high prices obtained, because great rivalry in competition compel the parties who purchase the

property to pay more than what would be considered a fair marketable value; still it must be considered that this avenue is in the center of the city, and the land will always maintain a very high price and will always be considered a first-class investment where parties will be satisfied with a lower rate of interest upon their investments.

I am disappointed that the weekly reports of the deputies have not been examined as heretofore, and be sure to keep this information away from the deputies, as if they find that their work is not examined by the commissioners and followed up as it has been heretofore, they may become careless and neglectful, and the work will not be pushed forward as rapidly as it is necessary, in order to have the books properly examined before the second Monday in January in accordance with the law.

The numerous changes, necessary in the twelfth ward, recommended by you some two years ago, have kept the new surveyor from making much progress in carrying out the block system, but, as you have stated, the law must be changed before we commence.

Yours, respectfully.

MICHAEL COLEMAN.

Q. Now, I will take up the wards which you specifically refer to here in addition to the seventh ward which we have already touched; following the lines of this letter we pass from the seventh ward to the tenth? A. That increase was mostly upon the two important streets there; we found along the line of Grand street there that the people were vieing with one another in regard to getting locations, where the property had been tied up for years in the hands of owners, where they did not feel disposed to sell; the prices offered by those people on account of the good will of their business and being there so many years, compelled them to pay a great deal more than what an ordinary person would pay, but still we were obliged to take the prices that were paid and increase in proportion.

Q. Well, I find as matter of fact that the increase in that ward during the years 1889 and 1890 were only about half as large, notwithstanding, as the increases in the same ward during the years 1887 and 1888? A. Yes.

Q. And still that the increase was too large? A. I felt, you know, as if—he don't confine himself altogether to those two avenues, but he had gone over the entire area; the tenth ward had always been pretty well assessed; it has never been low; the property there has always commanded fair prices, but it required a great deal of atten-

tion and a large percentage of the income to keep it in thorough repair.

Mr. IVINS.—I want to correct the statement which I just made with regard to the increase there being smaller for the years 1889 and 1890 than it was in 1887 and 1888, the fact being that the increase in 1887 was \$325,000 and in 1888 \$386,000? A. That is nearer right.

Q. In 1889 the increase was \$229,000? A. That is all right.

Q. But in 1890 the increase was \$1,949,000? A. Nearly \$2,000,000.

Q. An increase of nearly two millions of dollars in the last year as compared with an increase of about a quarter of a million dollars the year before, as compared with an increase of about a third of a million dollars in 1888? A. Well, I called attention to it in that letter.

Senator FASSETT.—The seventh ward and sixth ward are the first two wards you have found where the increase in 1889 as over against the increase between '87 and '88 was in proportion to the total increase.

Mr. IVINS.—We have found that in the first ward, which has been a rapidly developing ward, and in the twenty-second ward and in the twelfth ward, all three of which have been rapidly developing wards, the increase has not been proportionally as great in the last two years as it was the two years before.

Senator FASSETT.—Nor in proportion to the total increase of the last two years over preceding years.

Mr. IVINS.—Yes, but we now find that in the seventh ward and in the tenth ward there has been an increase during the past two years proportionately very much larger than the increase during the preceding two years.

The WITNESS.—We are shifting in New York very rapidly; you can't sit here and determine whether we are right or wrong without an examination.

By Mr. IVINS:

Q. It appears then in this way: That the assessed valuation of that ward for the year 1890, total assessed valuation was twenty and three-quarters millions of dollars; that is, the tenth ward? A. That is right.

Q. And of that sum of 20,000,000, two millions and a quarter is increase in the last two years? A. The main increase was last year.

Mr. IVINS.—In other words, the increase in property valuation in that ward, all around, so far as appears on these assessment-rolls, has been ten per cent, gross, in the last two years.

Senator FASSETT.—And about nine-tenths of that the last year.

The WITNESS.—Yes; about nine-tenths the last year; yes.



By Mr. IVINS:

Q. Or nine per cent in the last year? A. Yes, sir.

Q. Now, as matter of fact, have property values in that ward increased nine per cent in the last year? A. I could not say that they have, but that would be no reason why we should not increase it, if they have not; if we found the assessments of 1889 lower than what they ought to be in proportion to the assessments of other properties throughout the city, whether the increase was ten or whether it was twenty, we should equalize it with other wards, but I claim that we have perhaps gone a little too heavy upon those wards; I have claimed that right through—I don't intend to defend all the assessments in our office; I do all I possibly can to try to equalize them and try to correct them and try to teach them if I know how.

Q. Speaking of equalization, if you find it necessary to make an equalization of this kind this year it would be due to the fact that you had not assessed property the year before, would it not? A. It would be due to the fact that changes would advance property in certain locations; we don't stand still in the city; we shift every month.

By Senator FASSETT:

Q. Every large building makes a change so much? A. Certainly, of course.

Mr. IVINS.—That is perfectly understood.

The WITNESS.—Two years ago you could go down to Liberty street and take and buy property in the neighborhood of twenty dollars a square foot; the Jersey Central of New York started a large building and you couldn't buy it at fifty dollars a foot.

Q. To make it concrete, put it in this form: If the real estate in the tenth ward were to-day sold at the market rates, in your judgment, would it sell for nine per cent higher than it would have sold a year ago? A. It would sell higher because real estate is becoming the only solid safe investment, and there is no part of the word where it is so safe as it is in the city of New York.

Q. Does not that apply just as much to the first ward, twelfth and twenty-second? A. No; not at all; there is a line you can draw to the tenth ward, along the line of the Bowery which is a great thoroughfare, and Grand street, which is the old business street, has not yet reached its limit of values, and the corners through the tenth ward are sought after by investors and people are getting satisfied with the lower rate of interest.

Q. Is investment, in reality, at the market price, a better investment in the seventh ward than it is in the first ward? A. That is

according to who owns it and controls it; there are people who wouldn't own a tenement house in the seventh ward, while a banker would take it and take three per cent, who did business in the first ward; talk about real estate here, and I'll put you in the hole.

Q. You said this was accounted for because of that increased value of real estate as an investment? A. Yes.

Q. Now, is not real estate in the first ward just as good an investment, if bought fairly at the market price, as real estate in the seventh ward or tenth ward? A. According to what you consider the market price, and according to who owns it.

Q. You get a great many "accordings" in there. A. Yes; that is it exactly; there are so many elements in the real estate.

Q. We must get back to your own proposition; is real estate investment, in the seventh ward, a better investment than real estate investment in the first ward? A. Generally speaking, an investment is an investment—

Q. Well, that's what I thought; that is exactly what I thought. A. And it is altogether owing to how a man feels about investment in relation to its income; some are satisfied with a small share of income, while others are not quite so satisfied with a small income, but are willing to labor and get a large one; to take care of a business house in the first ward, where you have one tenant, a larger tenant—it is much easier for a man, a rich man, to take three and one-half per cent than for him to get five or six for a tenement house in the seventh ward; it is altogether according to what people consider an investment.

Q. Is it due to the fact that real estate investment in the seventh ward is considered so much better than real estate investment in the first, that the increase in the seventh ward has shown a very marked percentage in the last year, and that the increase in the tenth ward has shown almost ten per cent in one year? A. Yes; it is considered so by those who seek after that kind of property in the tenth and seventh; I know there has been a rush made for it by a class of people who had small accumulations in savings banks, getting a low interest upon it, and they thought perhaps may be by laboring and taking a large piece of property, with a very large crowd upon it, living in it and taking care of it, that they could become landowners, and get a better rate of interest for their money.

Q. Is that rush for those investments shown by an increase along the line of the tenth ward, in market values of ten per cent during the last year? A. I should judge in some parts perhaps, may be it would be five per cent.

By Senator FASSETT:

Q. That is the maximum? A. That is the maximum; I wouldn't say ten.

By Mr. IVINS:

Q. Now, so far as market values are concerned, has not the increase in market values in the average for real estate in the first and the twelfth wards been as great as the increase in market values in the seventh and tenth wards? A. Been far ahead of it.

Q. Notwithstanding which fact— A. But you must understand that the increase in the twelfth ward and the increase in the first ward are for different purposes; the increase in the first ward is for people who don't stand for forty or fifty thousand dollars for a location; large corporations with large capital; according to the increase of the twelfth ward, is upon the basis for an investment or for a sale.

Q. In the first and twelfth wards the increase in market values has been greater than the increase in market values has been in the seventh and tenth? A. Generally speaking, yes.

Q. Nevertheless, the assessments do not show so great an increase in the first and twelfth wards, as compared with two years ago, as they do in the seventh and tenth wards? A. They should not hardly two years ago, because the seventh and tenth wards has shown more improvements and more new buildings this last year back than they have for several years previous to that; that is the reason why the increase was there.

Q. Is not this the fact; that the increase in assessments now appearing on the books really bears more heavily upon the older and less rapidly developing portions of the city than it does upon the newer portions, like the twelfth ward, or than it does upon the rapidly developing portion like the first ward? A. Well, I should say for the care that that kind of property requires, and for the rapid depreciation which it is subjected to, and the rate of interest that you receive from it, that it does bear more heavily upon them.

By Senator FASSETT:

Q. That was the cause of your protest, was it not, Mr. Coleman? A. Yes, sir.

By Mr. IVINS:

Q. You did not express that in terms here, but that was really the occasion of it? A. Oh, yes; I have had large experience in both of those; I have had large experience in all those things, and I know.

Q. You do not say that particular thing here, but that is what your protest was founded on when you wrote this letter? A. Yes.

By Senator FASSETT:

Q. You would not write a formal protest like that unless you felt there had really been some very serious mistake made? A. I felt as if perhaps may be it might have been an error in judgment.

Q. We do not suppose it would be an error from any other cause? A. No.

Q. You don't think there was a willful determination to injure certain classes of property as over against certain other classes? A. Oh, no.

By Mr. IVINS:

Q. Now, in the eleventh ward? A. That ward has been increased more this last year than it has for five years, I guess.

Q. That is what I want to show in the figures; the increase in the years 1887 and 1888 aggregated \$568,000, and during the past two years the increase was \$2,940,000, and during the last year alone the increase was \$2,691,000? A. Yes.

Q. But during the year 1890 the increase is more than five times as large as the increase was for the two years, 1887 and 1888. A. That is so.

Q. And out of a total valuation of \$20,000,000 there has been an increase of \$2,691,000 in one year — this last year? A. Yes.

Q. In other words, there has been an increase of thirteen per cent in the assessed valuation in the eleventh ward in the past year? A. Yes; I am sorry to say there was.

Q. Where is the eleventh ward? A. The eleventh ward is bounded by Rivington street, Avenue B and Fourteenth street and the East river.

Q. That is an old part of the city, is it not? A. More valuable almost for business and for rental purposes twenty years ago than it is to-day, and received its death blow when they killed John Roach.

Q. But notwithstanding the death of John Roach, the taking away of that element of prosperity, the fact that it was worth more for building and business purposes twenty years ago than it is to-day, the values have been increased thirteen per cent in the last year? A. There was some justification in regards to increasing it, because in all the years gone by I would always try to direct the deputy in charge of these wards where business had gone away from, like the



eleventh, which was a home of the shipbuilding and iron founders, to treat that ward very leniently, but the deputy last year knew more than I did, so —

By Senator FASSETT:

Q. This had to be done by a vote of two of the commissioners? A. No; the commissioners have nothing to do except it is to correct erroneous assessments; the assessments in the eleventh ward is not above the market value, and as long as the deputy assessed only the market value the commissioners have no right to make him reduce it.

By Mr. IVINS:

Q. Then it is possible in certain wards the assessment shall be on the basis of the full market value and in certain wards the assessment shall be on the basis of ninety per cent, and others eighty per cent? A. That is a matter of judgment.

Q. Is it possible for that to happen? A. It is possible, but it aint so; it aint so; the eleventh ward — there has got to be some new life put into it; it is into dry rot; the closing of the old Morgan iron works, the Novelty works, the shipping going away from there, has left the docks vacant and going to pieces, and now there is a large number of yards and storage places along the line there that will not be hardly needed, and there is no life there; for that reason I done all that I possibly could to get the deputy to take the situation in; I couldn't do any more than try and teach him; that is all I could do.

Q. Yet, notwithstanding the fact that you say that property is not so valuable for building or business purposes as it was twenty years ago, for the last ten years the property has steadily been increased in assessable values? A. Yes.

Q. There has never been a decrease? A. There has never been a decrease.

Q. And notwithstanding such increase right along for this entire time, which has aggregated four and one-half millions of dollars in the last ten years, that more than one-half of the ten years increase has happened during this one single year? A. As the years go by there and as the old foundries and workshops disappear, new tenement-houses go up; that increase from a hundred to two hundred thousand dollars each year is all for new improvements, but there has been no general increase, taking the entire ward, until this last year, and this last year there has been a general increase upon every piece of property.

[Recess until half-past 2.]

HENRY M. TATE, recalled, further testified as follows:

By Mr. IVINS:

Q. Mr. Tate, have you made an investigation of the department of taxes and assessments? A. Yes, sir.

Q. And this is your report [showing paper to witness]? A. Yes, sir.

Q. You have made these figures up from a careful study of the books in the department? A. The reports of the commissioners — report of the department of taxes and assessments.

Q. And the statements contained therein are to you known to be correct and accurate transcripts of the accounts as shown on the books of the reports? A. Yes, sir; the pay-roll was taken from the comptroller's office.

Q. You say the pay-roll was taken from the comptroller's office? A. Yes, sir.

[Report marked Exhibit No. 1 of this date.]

MICHAEL COLEMAN, recalled, further testified as follows:

By Mr. IVINS:

Q. Mr. Coleman, is this a correct statement I now present to you of valuations and amount of taxes from the year 1805 to date? A. To the best of my knowledge and belief.

Q. Made up from the records? A. Made up from the records.

Mr. IVINS.— I will offer that as Exhibit No. 2.

[Paper marked Exhibit No. 2 of this date.]

The WITNESS.— I will have copies of it made and sent to you.

Q. Now, Mr. Coleman, I find by reference to the comparative statement prepared by Mr. Tate, that the increase of values in the thirteenth ward for the years 1887 and 1888 was, in round numbers, \$705,000; that for the years 1889 and 1890 it was, in round figures, \$2,190,000; I find that the total increase in valuations in that ward for the past ten years has been only \$3,520,000, and that the increase during the past year alone has been equal to more than half of the entire increase for the past ten years? A. That is so, sir.

Q. How do you account for that? A. The deputy, in going through the wards this past year, from the sales that was made there in different parts of the ward, felt as if there should be a general increase made throughout the ward; it is a part of the city—

Q. Who was that deputy? A. Mr. Perry.

Q. When was Mr. Perry appointed? A. About two years ago.

Q. At whose request was he appointed; which commissioner? A. I do not know; he came from the civil service.

Q. Came from the civil service? A. Yes; I don't know anything about that; it was a section, from 1839 in New York up to 1852 — that was a mechanical section.

Q. You mean it was a district in which mechanics and artisans lived who worked? A. Yes, sir.

Q. What were its boundaries? A. Grand street, Rivington street, Norfolk street and the Bowery; the values there changes same as they did in the eleventh ward; the shipping interest and the foundry interest and the oyster business that had been carried along there for a great many years had rather moved to other sections; the dry-dock that was there years ago had been shipped down at the foot of Pike street, and Brown & Bell's old ship-yard had gone out of business — there was nothing there to take and raise values for a number of years back, but about two years ago the class of people who commenced to get into the seventh ward and improve the property there, and commenced to pay large prices for it, went over the boundary line into the thirteenth ward, right across Grand street, and they commenced to speculate and operate there, and that was the cause last year of this large increase, that in the judgment of the deputy that it was below the marketable value of the property surrounding it.

Q. You think that the property in that district is as valuable to-day for business, residence or manufacturing purposes, as it was twenty years ago? A. The marketable value of the property from 1868 up to 1872, in the thirteenth ward, was as high then as it was at any time since that up to about two years ago; about two years ago values commenced to change there, and perhaps now they have got upon the basis of what they were in 1871.

Q. Now, I find that during the last ten years, notwithstanding that fact, there has been an increase in the assessed values of \$3,520,000?

A. That was caused by old buildings that was occupied by one family, by a class of people who lived downtown who were successful in business, who vacated their old property and moved uptown, and instead of rerenting it in the same state, they tore it down and put up tenement-houses, and those increases in the last few years were almost all for new improvements.

Q. Is it your judgment that the property in the thirteenth ward has increased more in the last year than it did in the preceding ten years altogether? A. Well, perhaps, may be not; you must remember that the values in that section of the city have increased very slowly since 1879; when the tide turned after the panic of '73, it was six years before things commenced to look bright in any part of the city.

Q. Let me ask you right there, when was the highest tide of real estate values in New York city, so far as you know? A. Well, they ran about from '71 in the fall to December '72.

Q. Have real estate values ever been higher since that time? A. Oh, yes; they have been higher in certain parts of downtown, where large corporations have combined together, and on the west side of Central park and also in the twelfth ward; although the elevated railway might be a flimsy structure and it might do special damage, but it has been a godsend to New York.

Q. Leaving out the first ward, west of Central park and north of Central park, have real estate values in the rest of the city reached the high-water mark of 1872 since that time? A. I think perhaps they have right in the throat of Broadway, north of Fourteenth street and south of Twenty-fifth street; there large buildings have gone in since that time — Arnold and Constable's, Lord and Taylor's, Sloan's, and hotels — Bartholdi, and lots of those places that concentrated a class of business around there that perhaps might be that property, held same as it was by large holders of real estate, would bring more to-day than it ever did bring before in New York, and also along the line of Sixth avenue.

Q. Generally speaking, going over the whole island, however, would you say that Manhattan Island, according to the average market prices, taking all parts of the city together; the parts where there has been an improvement, together with the parts where there has been a decrease, as compared with 1872, is of greater market value than it was under the market of '72? A. Oh, yes; it is of greater market value; there are certain parts that has depreciated very much indeed; for instance, take that section east of the park and north of Sixty-fifth street, as far up as One Hundred and Fifteenth on the line of Fifth avenue, fronting the park; there has been rather stagnated and depreciated values there since 1873; the west side has taken the turn there and has carried everybody to it.

Q. Now, that has been counter-balanced by an increase in values in other parts of the city? A. Oh, yes; it has not decreased, the entire ward, because the improvement between the river and Fourth avenue has kept up values there so that we could show an increase every year.

Q. Now, do you believe then that the aggregate of all real estate values in New York city is to-day larger than the aggregate of all real estate values in New York city during the high markets of 1871 and 1872? A. Oh, yes; oh, yes; by far, because you can see by the amount of building that has gone on north of Seventy-second street —



by the tapping of those new roads — new parts of the city up there, and by the manner in which people were compelled to move out of the lower part of the city and go up town and erect their bulidings, and the way speculation has been going on north of Seventy-second street; the entire city is worth a great deal more than it was in 1872.

Q. That is due, is it not, virtually, to the bringing into the city of new regions for building purposes? A. Oh, yes; a great deal, certainly; a great deal, indeed.

By Senator FASSETT:

Q. The city has a larger area? A. Double.

By Mr. IVINS:

Q. That increase is almost entirely due, is it not, to the increase in the area of the city and to the building up of the new parts of the city? A. Well, the increase is, as far as the area is concerned, since '74 up to three or four years ago; the people now are crowded in the river; they can't find accommodations within their means in the city, and for the last four years they have been going over into the Twenty-third and Twenty-fourth wards there and erecting small houses and small homes, which shows an increase there.

Mr. IVINS.—Now, for the purpose of pointing that out, I call the attention of the committee to the fact that in 1872 the assessed valuations of realty in New York city were \$794,000,000 as against \$1,398,000,000 for the present year, and while on that comparison, let me call your attention to this fact, Mr. Coleman, it appears that in 1872 the personal estate subject to taxation and upon which the tax was levied, was \$306,000,000?

The WITNESS.—Yes.

Q. As against which there is only \$298,000,000 to-day? A. I am surprised that under the present law that we hold anything like \$298,000,000; it is a tax now of the people every year they ought to be educated to avoid; we only catch the widows and the orphans, who have no protection and those who are too honest to swear off or too ignorant to know how to take advantage of the law.

Q. It is not due to the fact there has been a decrease in personal estate in New York city during this time? A. No, sir; there has been a large increase since that time.

Senator FASSETT.—Have you any information on which you can base an estimate as to the relation and percentage of personalty that is taxed and the personalty that escapes taxation in this city?

Mr. IVINS.— I think if you will defer that question we can bring that all out. I have a preliminary statement about that, when we come to personal taxes.

Senator FASSETT.— It will not do any hurt if he can answer that now, and bring it out afterwards.

The WITNESS.— To answer that you would have to answer it in such a way that you would know how the answer was given, if you mean what is and what is not protected by law.

Mr. IVINS.— That is not what he means. What he means is, how do you get at the aggregate; how do you make an estimate of the personal property in New York city, to begin with?

The WITNESS.— I will answer that question.

Mr. IVINS.— Now, if the committee will excuse me, I would rather that should not be answered now because it is a very long question and full of very difficult matter.

Senator FASSETT.— It is very interesting.

Mr. IVINS.— Very interesting, but it throws us right off of this point of the inquiry.

Senator FASSETT.— Very good. We will take it up in a different order of proof.

By Mr. IVINS:

Q. Do you know of any particular reason why this apparently tremendous increase should have occurred in the Thirteenth ward this year, as compared with last? A. Only the reflections of values that the deputy thought in his opinion affected the land within the Thirteenth ward, and also the manner in which parties sought corners there and went upon the principal streets, such as Grand street, and also upon the principal corners that are in that ward, and also the number of improvements and new buildings erected during the past two years in that ward.

Q. Have there been twice as many improvements in that ward this year as there were last year? A. Oh, yes; last year there was —

Q. Have there been six times as many? A. Last year there was about \$600,000 worth of new improvements alone in that ward.

Q. Six hundred thousand dollars worth of new improvements? A. New improvements.

Q. But the increase was \$1,805,000, so that leaves \$1,200,000 to be accounted for. A. Well, when a man takes and puts in an application to the building department, generally, who is a safe man and a proper man and intends to hold his property, he puts it in a little below what

the property will cost; they have that purpose in view for the purpose of evading taxation, or misleading, to a certain extent, and then all lands surrounding new improvements are affected by the improvement that goes up, and we certainly must follow the value of those lands.

Q. You said Mr. Perry made these assessments? A. Mr. Perry; yes, sir.

Q. Who made the assessments in the seventh ward? A. Mr. Perry.

Q. Who made the assessments in the tenth ward? A. Mr. Perry.

Q. Who made the assessments in the eleventh ward? A. Mr. Strand.

Q. How long has Mr. Strand been in the department? A. Appointed in 1874.

Q. In the seventh ward I find that the increase of assessments for the years 1887 and 1888 was \$1,101,000? A. Yes.

Q. I find that for the year 1889 the increase of assessments was \$289,000? A. Yes.

Q. But for the year 1890 the increase was \$5,745,000? A. Yes, large increase.

Q. Making an aggregate of \$6,034,000 increase in 1889 and 1890 over the increase of \$1,101,000 of 1887 and 1888; I find that the total increase in valuations in that ward for the last ten years has been \$8,319,000, of which total increase, for ten years, \$5,745,000 appears in one year, namely, last year; now, can you account for that? A. Yes; I can account for it; the seventeenth ward, on 1879 to 1881, showed no increase whatever; upon the turning of the tide—

Q. Where is the ward? A. The seventeenth ward is bounded by Rivington, Fourteenth, Avenue "B" and Third avenue.

Q. Joins the thirteenth? A. Joins the thirteenth on one side only on a corner; it joins the eleventh on one side and joins the tenth upon the other, the eighteenth on the north; in 1881 things commenced to turn all over the city and the increase on property in that German district was very slow indeed; I think, perhaps, may be the ward was a little low for the past two years in proportion to what it should be assessed, and there is no doubt but what Mr. Perry had some grounds to increase it considerable, but still it is increased so much that I wrote a protest in regard to the way in which it was done.

By Senator FASSETT:

Q. This is part of the territory covered by your protest? A. Yes, sir; the ward was assessed in 1887, 1888 and 1889 rather low.

Q. Now, I find that the total assessment for that ward was \$41,000,000? A. Forty-one million; that is right.

Q. And I find that five and three-quarter millions of that forty-one millions were added in the last year? A. Well, you must take into consideration —

Q. Now, has property in that ward actually increased twelve and one-half per cent in value between the years 1889 and 1890? A. No; it has not, but if we were low in 1889, lower in proportion than that we should have been with the surrounding wards, the deputy should not have kept it low; out of that \$5,000,000 there was \$1,000,000 of improvements, new buildings.

Q. That will account for \$1,000,000 of it? A. That will account for \$1,000,000.

Q. Now, was there an improvement in the market value of other real estate there except the improvement incident to this \$1,000,000 in increased values because of new buildings? A. There was a large appreciation in the seventeenth ward this past three years; Fourteenth street and Third avenue, north of Houston street, certainly has increased very much; along the line of Third avenue there all the property has increased, the same as it has upon all important avenues of the city this last three years.

Q. Do you think that the property values of the seventh ward has increased as much this last year as the property values of the first ward from new buildings and all other causes whatever? A. In certain sections; you can't take the first ward against the seventeenth ward only in certain sections; there is certain property in the first ward that has not felt any increase whatever; take Market street and Stone street, and along the line of South street; property in South street, in the first ward, was worth more thirty years ago than it is to-day.

Q. Haven't there been more improvements in the first ward in the last year than there have been in the seventeenth ward? A. Yes; as far as money value is concerned, there is.

By Senator FASSETT:

Q. Quantitatively? A. Yes, sir; concentrated in large buildings.

By Mr. IVINS:

Q. If there has been 1,000,000 of increased values because of improvements in the seventeenth ward, don't you suppose there have been 2,000,000 of increased values in the first ward? A. I would like to look at the building-book to find that out; the improvements in the first ward are different kinds of improvements; they are concentrated there in one mass of buildings, built for office purposes;



built by corporations who spend more than any one man would spend for his own special use.

Q. One of the illustrations of that, during the past two years, has been the enlargement of the Equitable building; has it not? A. Yes.

Q. Then, another illustration is the building of the Union Trust Company; is it not? A. Yes; but at the same time we have had them this last two or three years on the books in progress; we couldn't change ahead and know what was going to be done by the men.

Q. You had the United States Trust Company on the books completed; didn't you? A. Yes.

Q. That was one of those very large and very fine buildings? A. Yes; and the Union Trust Company.

Q. How do you account for it that the increase in values for the purpose of taxations of real estate, only appear on your books at \$3,608,000 in the first ward, and stand at \$5,745,000 in the seventeenth ward? A. Because the first ward was assessed perhaps nearer its marketable value according to the ideas of the deputy, than what the seventeenth was assessed near its marketable value, according to the idea or judgment of the deputy; that is the reason.

By Senator FASSETT:

Q. That is, it depended upon the judgment of the deputy? A. Yes, sir.

Q. In the absence of complaints by the owners, any district in the city is at the mercy of the deputy, largely? A. Well, we generally hear of it.

By Mr. IVINS:

Q. When you filed this protest you said this, this morning: "In going over the reports of the deputies, I find that the increase made, and the seventh, tenth, eleventh and thirteenth wards should be especially re-examined, as in my judgment this species of property should be treated," etc., etc.? A. Yes, sir.

Q. Were they re-examined? A. If they were, there were no reductions made, except perhaps in a few isolated cases.

Q. Do you know whether they have or not? A. I do not.

Q. Did you call the attention of the board to this fact? A. That was spoken of in the meetings of the board several times during the past three or four weeks before that letter was written.

Q. Prior to the writing of this letter, you had discussed this matter in meeting? A. Yes; we felt a little alarmed about it.

Q. Who were we? A. The commissioners.

Q. Feeling a little alarmed about it, what did you do? A. I wrote that letter to Mr. Bell, because I was engaged.

Q. This was during the period of the year, up to December eighteenth, when you were getting out the final estimates? A. Yes, sir.

Q. And that took you the entire day, as a member of the board of estimate and apportionment? A. Yes, sir.

Q. And you regarded your duties, as a member of the board of estimate and apportionment, as quite as important as your duties as tax commissioner? A. We have to be there in all matters; I am obliged to be there.

Q. In other words the volume of the duties of one position at that time virtually excluded you from the possibility of devoting yourself to the details of the other position at that particular time? A. I couldn't do it.

Q. But you discussed these matters in the board; in what form did the discussion come up? A. The chief deputy, Mr. Bell, spoke several times to the commissioners in regard to the increase made there, and in going over his weekly reports with the deputies, telling us that the percentage was very large; that the wards had not been disturbed for several years before this way.

Q. When you say "this way," you mean to any such extent? A. To any such extent; but an increase had been made every year, nevertheless? A. Oh, yes; an increase had been made every year.

Q. And what was supposed to be at the time, to be a fair increase? A. It was supposed to be a fair increase in regard to the thirteenth and the eleventh; the seventeenth would perhaps have too'd a little more increase in 1888, and 1889, than what we gave it.

Q. What was done in the board—Mr. Bell talked about it? A. Nothing was done in relation to making any reductions; I talked to Mr. Bell, and finally I thought the best way I could do was to write him a letter, and show that letter to the deputy, and see if they couldn't take and modify the figures.

Q. Why did you address that letter to the deputy, instead of entering it on the minutes of the board? A. I don't know; I do lots of things that way.

Q. Did you call the attention of the other commissioners to these facts? A. They knew it the same as I did.

Q. Feeling that, what steps did you take other than the particular one of writing this letter to Mr. Bell, to compel a re-examination? A.

Nothing, except to discuss the matter with the two commissioners; we were helpless to a certain extent, because we knew in looking over the books that Mr. Perry had not exceeded his duty in placing his property above the marketable value of what it would sell for, and therefore we felt that we had no right to take and do otherwise than to try and see if he couldn't modify his ideas as to the value, so that this property would not be assessed at a higher basis of value than other property throughout the city, or to change them so much in one year.

Q. Haven't you the power to compel an equalization where one deputy assesses at a comparatively higher rate of values as estimated on the property value than another deputy does? A. We have after the books are opened; but the complaints were so few in relation to this large increase, to the number of people who are living in that ward that there was no necessity for going over the ward to reduce it again.

By Senator FASSETT:

Q. That is, you have not any power to change the figures while they are still in the field book? A. No, sir.

Q. But only from the first of September? A. From the second Monday of January to the thirtieth of April.

Q. On complaints? A. On complaints.

Q. You have no power then to take the different wards and equalize them previous to that time? A. We have the power; but I don't know where the justice would be in accordance with our oath of office to take property that is not assessed over what it would sell for and reduce it; we try and do what we can to equalize it.

Q. There are twenty-three wards, and out of the twenty-three wards fifteen deputies assess on the basis of seventy-five per cent and the rest have assessed on the basis of eighty-five per cent? A. Oh, no; that would be a matter of adjustment between the commissioners and the deputies; the deputies would take and bring in a few sales there that would show that his property is not assessed over seventy-five per cent, and although we might differ with him, still we wouldn't be able to prove it.

Q. And you wouldn't have any power to act arbitrarily? A. No.

By Mr. IVINS:

Q. Now, the nineteenth ward has been one of the rapidly developing wards of the city, has it not? A. Not lately.

Q. Well it has been? A. Yes; between 1866 and up to 1879, the

nineteenth ward did show a tremendous increase each and every year, more than any other ward in New York.

Q. I find that in 1887 and 1888, the aggregate increase in valuations in the nineteenth ward was thirteen and three-quarters millions? A. Yes.

Q. In 1889 and 1890, however, it is only in round figures seven millions? A. Yes, that is right.

Q. So that there has been a very marked decrease in the growth in that ward during the past two years as compared with the growth of the preceding two years? A. Oh, yes.

By Senator FASSETT:

Q. Providing the estimate is a fair test of that growth, and is as a matter of fact besides? A. There has been a marked decrease in the new improvements that have been going on in the nineteenth ward since the west side has caught the tide.

By Mr. IVINS:

Q. Out of this \$95,000,000 of increased assessments in the last two years, it appears that the greater part of the increase has been everywhere in the old and less rapidly developing parts of the city, and has not been in the new and more rapidly developing parts of the city; does not that appear from the very matter that we have been going over? A. Tell me the parts that you have mentioned, then I will know exactly.

Q. The seventh ward? A. The increase in assessments in the wards lying between Catherine street and Fourteenth street, and east of the Bowery, shows more of a marked increase for assessment purposes than it does in the nineteenth ward.

Q. Or in the twelfth ward? A. Or in the twelfth ward?

Q. Or in the twenty-second ward, or in the first ward? A. That is in proportion to the improvements that are made there; yes, sir.

Q. Now in the twenty-fourth ward — that is the upper end of the city, is it not? A. Yes.

Q. I find that there was a decrease in 1889, from the figures of 1888, of three-quarters of a million? A. Yes; that is because of the new parks.

Q. But in 1890, there was an increase over 1889, of two millions and a half? A. Yes; that is all right.

Q. How do you account for that? A. Last year the court confirmed the action of the park commissioners in deducting about one-eighth of the entire area for new parks, and we were obliged to take



that off of the assessment-rolls, while last year we caught a little of it by the new improvements that were starting in different parts of it.

Q. There seems to be a great fluctuation; here in 1887, the increase was half a million? A. What ward?

Q. In the twenty-fourth ward; in 1888, the increase was two millions and a third? A. Yes.

Q. In 1889, there was a decrease of three-quarters of a million.

Q. And in 1890, there was an increase of two millions and a half? A. Yes.

Q. How do you account for that great fluctuation, increasing and decreasing in values in a period of four years? A. The lines were changed by an act of the legislature during these years, and parts of the land that was lying in the twenty-fourth ward were turned over to the the twenty-third ward, and therefore it showed upon the record that we had to take that land that was transferred at the twenty-third ward off the twenty-fourth ward.

Q. That would only appear in one year? A. Only in one year.

Q. What year was that? A. That was four years ago, when that decrease showed.

Q. That decrease didn't show four years ago? A. Whatever time it was.

Q. That decrease showed only one year ago in 1889? A. Then I would explain that by the parks being taken out; there were several new parks taken out.

Q. The parks are still out this year? A. No; not now; they were confirmed last year.

Q. They are still out? A. Yes, sir; certainly.

Q. And notwithstanding the fact that they are still out, it will show an increase of two millions and a half there last year? A. Why wouldn't we; because all pieces of property surrounding and having a frontage on those parts jumped up to three times the value of what they were three years ago.

Q. But was not that equally true of the particular year that they were taken out in 1889? A. No, sir; because we didn't know they were taken out just at the time when we had power to reduce or increase; it was right in the midst of summer; we can only make one assessment each year.

By Senator FASSETT:

Q. That made the assessment so as to figure it out about the average assessment, and in the meantime the courts came in and took out those lots devoted to the parks? A. Yes.

Q. And when that was taken out it brought you way below where you had been the year before? A. Yes, sir; and then we jumped up to see if we couldn't get a little of it back.

Q. The next year you made it good and a little more? A. Yes.

By Mr. IVINS:

Q. Have you got the statements of the tax rates for the last few years? A. Yes, sir; you will find it there for the last thirty years.

Q. I find that the tax rate of 1.97 for this year is two points higher than the tax rate of 1.95 from last year; as a matter of fact, in 1888, it was 2.22; now, as a matter of fact, although the rate is this year 1.97 as compared with 2.22 in 1888, are the taxes of the city of New York actually less in the aggregate to-day than they were then? A. To the present generation perhaps may be the money that they pay out now at the present time, for those who hold real estate, they might be a little bit less.

Senator FASSETT.—Put your question in a little different shape.

Q. That involves an entirely different point; does the aggregate of moneys paid in taxes to-day exceed or is it less than the aggregate of moneys paid in taxes in 1888? A. I will have to figure what ought to go in the budget before I could answer that correctly.

Q. If you will tell us what you mean by saying what ought to go into the budget? A. Up to this year the board of estimate and apportionment always paid to the sinking fund the interest upon the bonds held by the sinking fund, and this year they did not; and up to this year the board of estimate and apportionment always appropriated the full sum of money that was placed on the city by the State Comptroller for the amount of State tax as reported by the State Board of Assessors; this year they did not.

Q. By how much? A. Oh, a million and a half.

Q. Between a million and a half and two millions, wasn't it?

SENATOR — It was a little over a million and a half?

The WITNESS.—Yes. And there is also another item there of a bill that was passed by the Legislature but was not signed by the Governor. There were some that were vetoed by the Governor. We figured that our proportion of the amount that was signed by the Governor for State purposes was so much, and we only appropriated that sum, whereas, if we had appropriated the full amount that we were called upon to appropriate, it would be about \$700,000 to \$800,000 more.

Q. Now, as a matter of fact, although the tax rate appears to be 1.97 per cent as against 2.22 of two years ago, is it not the fact that

the city is to-day actually expending more money out of appropriation accounts than it spent two years ago? A. Yes.

Q. It is? A. Yes.

By Senator FASSETT:

Q. Then it seems that in addition to the failure of the board of estimate and apportionment to pay the interest on these bonds as they formerly did, there is something over 2,000,000 that was not included in the bill on account of the action of the city authorities in reference to State taxes; is that right? A. That is a separate item.

By Mr. IVINS:

Q. Is not this true that the present tax rate of 1.97 has produced by this process, first I mean as compared with the tax rate of 2.22 of two years ago, first, by adding \$145,000,000 to assessed valuations? A. For the two years.

Q. For the two years, and increasing the assessed valuations on one hand, decreasing the apparent expenditure on the other, first by going to the sinking fund for a part of the moneys to be spent for administration, and by refusing to put into the budget a certain proportion of the State taxes? A. That is so, but I still justify that we were right in doing it.

Q. The question being apart as to whether you were right or whether you were wrong, is that so? A. That is so.

Q. That apparent low tax rate then arises from this fact that you have increased the dividend and decreased the divisor? A. That is true.

Q. And left a small quotient? A. That is true.

Q. The quotient, however, is only apparent, is it not? A. We will have to make it up.

Q. Is not it a fact that every man who goes to pay his taxes to-day, except in very rare cases where there has been a marked depreciation in the value of property, has to draw his check for a larger sum than he did two years ago? A. Oh, no.

Q. Why not? A. Because it is not taken out of him individually; it might be taken out of him in the future, provided he owns the property.

Q. It is taken out of him individually, isn't it, in all regards except this, to the extent that money is borrowed from the general fund and money is borrowed from the sinking fund and money is withheld from the State taxes with the object of decreasing the levy? A. I don't say with the object.

Q. With the effect? A. It had the effect.

Q. With the effect of decreasing the levy? A. It had the effect; yes.

By Senator FASSETT: .

Q. What did you mean by saying, when Mr. Ivins was asking that question, that you would have to make it up? A. The courts, I believe, up to the present time, the latest decisions, claim that the board of estimate and apportionment had no right to draw their own conclusions about the bills that were approved and unapproved, and also in relation to the matter now before the court in relation to the State Board of Equalization, so far the decisions, up to the present time, have been against us, and I am afraid that New York will suffer as she has always suffered heretofore by being made to pay a larger percentage than what she ought to.

Q. That is, you think these amounts that you thought you had escaped must be made up in the levy at some future day? A. I am afraid so, or issue bonds, which is the same thing.

Q. It is only borrowing the future? A. Yes, sir; it is only borrowing the future.

By Mr. IVINS:

Q. Is it, in your judgment, material one way or the other to the taxpayer what the rate is if the actual expenditure for city government is larger than it was before? A. My views on that have always been one way; I have always claimed that we should have as low a valuation as we possibly could have and at the same time do our duty and let the rate take care of itself; I don't care where the rate goes; the higher the rate is the more careful we will be about public money.

Q. The higher the rate is, isn't it quite probable that the higher the assessments will be for the purpose of reducing the rate? A. Not while I have anything at all to do with the assessments; the assessments and the rates are two different things; I don't care where the rate is; I am looking after the assessments.

Q. Have you ever, as a member of the board, made this calculation as to where the rate would have been if the assessments of two years ago still prevail and the board of estimate and apportionment had not drawn on the general fund or sinking fund or withheld State taxes? A. No, sir; I never bothered my head about those things.

Q. Don't you know that the rate would have been much higher than 2.22? A. It would have been higher.

Q. It would have been higher? A. Yes, sir; that is providing that we had paid the interest upon the bonds held by the sinking fund, together with the other two items.



By Senator FASSETT:

Q. When you say that there is some advantage in having a high rate, you mean it would call public attention sharply to how much money was being raised? A. Yes.

Q. And that the effect of having a low rate is to lull apprehension? A. People in New York are prosperous generally, and they are easily satisfied; they not a complaining class of people by any means; they are the best payers in the world; you can see that by the way when the books are opened about the first of September, and before they are opened twenty days there are 25,000 paid in there; they are not a complaining class of people; they are easily imposed upon, as it were.

Q. And the statement of a low rate has a tendency, you think, to lull apprehension and prevent inquiry? A. Well, it is a low rate; there is no doubt about that.

Q. I want to get at your reason for your statement a moment ago; you thought there was a reason why a higher rate was not such a bad thing, other things being equal? A. I think a higher rate calls public attention to things, and makes them look after things more sharply and carefully.

By Mr. IVINS:

Q. You think that the rate calls their attention to a thing more than the aggregate sum for which a taxpayer draws his check? A. Oh, I think the rate does.

Q. Then you think it is very desirable for an administration that proposes, if it can, to please the community, to produce as low a rate as practicable? A. If they can do so honestly, it is their duty to do so.

Q. In your judgment, is it doing so honestly when a million and a half of dollars is withheld from the State taxes? A. I claim it is.

Q. You think it is? A. Yes.

Q. Why? Because upon the examination that has been made and the showing that has been gone through in regard to the State Board of Assessors, for the little time that they gave us here in looking over our records, and what we have placed before them for the last ten or twelve years to try to prove to them that we are assessed unduly and out of all proportion to the other counties throughout the State, the only thing we could do to call public attention to it was to refuse to appropriate this money, which I claim to be the only honest way to wake the people up to the manner in which they are paying a larger proportion of the State taxes than what we ought to.

Q. How much did they add last year? A. One hundred and twelve million dollars, I believe; and the year before, \$119,000,000.

Q. Is it your judgment that that \$112,000,000, so assessed by them for equalization, was improperly assessed? A. It was wrong.

Q. Is it your judgment that the error was even greater than that as compared with other counties in the State; and, from your study of the matter, how much do you think that New York city is over-assessed for purposes of State taxation? A. From closest examination that could be made for the last sixteen or seventeen years of other counties through the State, and taking honest sales that have been made, I should judge that the full quota of what New York is liable for is not over thirty-five per cent instead of forty-five per cent.

Q. Of the entire sum? A. Yes.

Q. What would that amount to in assessed valuation in New York city? A. That I have not figured; I will have to figure that out.

Q. It will amount to at least two or three hundred millions less than what they are assessed for, wouldn't it? A. It would amount to two or three hundred millions, and if I had the power and was all alone in the tax office, I would wipe off those 300,000,000 so quick —

Q. If you wiped those 300,000,000 out to-day, you would wipe them out for all purposes whatever, both city and local taxation? A. Everything; I would let the rate take care of itself.

Q. Then if you wiped out that 300,000,000 in order that the taxpayer might have his property honestly and properly valued in the first instance, the rate would go very much higher wouldn't it? A. It would.

By Senator FASSETT:

Q. The effect would be that you wouldn't pay any more quantitatively for city administration, but you would pay a good deal less quantitatively for State taxes, would that be it? A. Yes, sir; that is it.

Q. And that wouldn't cost more to the city but it would save a good deal to the city so far as State expenses are concerned? A. It would affect the city financially in one way because capital of corporations and capital of banks and capital of trust companies who have to pay upon the market value of their capital stock couldn't afford, for the last six or eight years when money was a drug in the market, between two and four per cent, to pay a higher rate than what they have been paying; but then they would take advantage of the law and convert their securities into non-taxable assets.

Q. That is not a very difficult operation? A. Oh, no; they can do that in twenty-four hours.

By Mr. IVINS:

Q. Then, you think that for a fair assessment for both city and State purposes these valuations ought to be reduced fully 300,000,000? A. I say they should.

Q. Now why can't that be done? A. Well, I don't think the law would allow us to do it, and not only that, if the law did allow us to do it, and we were to do it arbitrarily the State Board of Assessors has the power to come in and increase us proportionately, so we wouldn't save anything by it.

Q. Has New York city any representative in the State Board of Assessors? A. No; it has not had since 1865, when Mr. Lawrence was there.

Q. It pays between forty-four and forty-five per cent of the State taxes and has no representative in the Board of State Assessors? A. No.

By Senator FASSETT:

Q. Who makes the appointments to that board? A. The Governor and they are confirmed by you gentlemen.

Q. We have not refused to confirm any appointments as to the State assessors? A. No.

Q. We have not had any chance; are there any vacancies now? A. No.

Q. Any holdovers? A. Yes, sir.

Q. They are all holdovers, are they not? A. Yes; all holdovers.

By Mr. IVINS:

Q. Why do you claim now that the valuations for assessments purposes are 300,000,000 in excess of what they ought to be; you also say that the expenditure for the purposes of the city government is now larger than it has ever been before? A. In the aggregate it is larger; but at the same time take the net, I don't say that it is, because we have a larger amount coming into the sinking fund from the revenue of the city, which is deducted, of course, from the gross sum, which leaves the net sum to be spent out of the taxation about the same sum that it has been for the past two or three years.

Q. The appropriations for the year 1888 were \$37,051,000? A. Gross.

Q. Now, if the items corresponding to all of those items of appropriations of that year were put together, would it not make gross appropriations for the present year of something over 38,000,000? A. I think it would, gross.

Q. Then the actual correspondence of item for gross of appropria-

tions for the year of 1888 and the year 1890 shows a larger expenditure this year than it showed that year? A. It should.

Q. All questions of rate apart? A. All questions of rate apart.

Senator McNAUGHTON.—There may be a fair chance for difference of opinion in regard to the statements of Mr. Coleman about the assessment of New York. Do you desire to have that come in now or at some future time?

Mr. IVINS.—Oh, we will bring that in again, because that is one of the most important matters that we have to inquire into.

Senator McNAUGHTON.—I am quite sure we don't agree, and I am also very sure that fifty-eight counties in the State won't agree with him.

The WITNESS.—No; I know they won't.

Mr. IVINS.—Fifty-eight counties in the State have the upper hand of New York county.

Senator FASSETT.—On Mr. Coleman's own statement he is shown to be wrong. However we want to get at the facts.

Senator McNAUGHTON.—Well, we will look into that matter.

By Mr. IVINS:

Q. Now, let us come to the matter of assessment and taxation of personal property; we find rather startling figures here.

Senator FASSETT.—Have you got through with this question of the real estate assessment in the city?

Mr. IVINS.—I have for the time being.

Senator FASSETT.—Have you taken up those wards as far as you intend to go into them?

Mr. IVINS.—I have, because those other wards run along without any marked differences.

Senator FASSETT.—There is one ward which shows an increase of 20,000,000.

The WITNESS.—The twelfth ward.

Mr. IVINS.—Didn't we take the twelfth ward up.

The WITNESS.—No.

By Mr. IVINS:

Q. I have intended to refer to that; I will do that now; I find that the twelfth ward shows an increase of assessed valuations, in the years 1887 and 1888, of 42,000,000? A. Yes, sir.

Q. I remember now having referred to it before? A. Yes, sir.

Q. And in 1889 and 1890 it showed an increase of only 31,000,000? A. Yes.

Q. Then, this ratio of apparent great increase in 1888 and 1889, is not due to the fact that the increase was greater in the twelfth ward



during the last two years than it was during the previous years, because it was actually smaller? A. In 1886, 1887 and 1888, the twelfth ward, in a great many cases, especially along the line of the Third avenue, the Second avenue and the Sixth avenue, was rather overbuilt, and the buildings stood there almost for between six months and a year and a half, and when the market is overstocked with buildings, then they hold back and don't go ahead until they unload; that took place the year before last; last year they started in again.

By Senator FASSETT:

Q. You are giving an explanation to the answer which, probably, was in the affirmative.

By Mr. IVINS:

Q. The point is this, that the ratio of increase is very marked in the seventh, tenth, eleventh and thirteenth wards? A. Yes, sir.

Q. But the ratio of increase is not nearly so great; in fact, the ratio shows a comparative decrease in the twelfth ward as compared with 1887 and 1888? A. Taking the marketable value of the property and the new improvements, perhaps it would.

Q. Why isn't it possible, when the commissioners find a state of things like that, which you find here relative to the seventh, tenth, eleventh, thirteenth and seventeenth wards, to compel a re-examination or to secure the services of other and different assessors? A. Well, that is a matter of judgment whether he was right or whether he was wrong.

Q. Do you hold yourself responsible for his correctness or his error? A. I am obliged to be responsible for the deputy's work in the office, although I think sometimes that they err in judgment, still, as long as they come within the meaning of the law, I can't go back on them and tell them to do different.

By Senator FASSETT:

Q. That is to say, as long as they assess anywhere under 100 per cent of the market value, they really have got you at a disadvantage when you try to knock down their assessment? A. Exactly.

Q. But it would suit your judgment better if the assessment was made further below the market value? A. Further below the market value.

By Mr. IVINS:

Q. Because assessments in some other districts are made further below the market value? A. Well, perhaps they might be as far as

the market value is concerned equalized, taking the selling price; but it is a property that depreciates more rapidly and requires more care; these houses over there in those four wards are occupied by fifteen to eighteen families and the wear and tear is greater and the percentage is not in proportion to what it is in other parts of the city for the care that must be taken of it, and for that reason the assessment should be as lenient as possible.

By Senator FASSETT:

Q. If any real estate or any lots of real estate were omitted from the roll by any means, would you know it at once? A. We wouldn't know it at once; we have a few cases of that kind where parties have come in; but they have been so few this last twenty years, except it might be in lands under water or may be pieces of property that have been leased by the corporation years ago for a number of years and where the lease had expired and we wouldn't get on to it may be the first or second year; but then we have so very few.

Q. It is possible then for a deputy to omit a piece of real estate from the roll? A. Not omit; if it was not upon the books he can go and leave it off; but to omit, he couldn't do it, because the books are examined three different times during the year and called off and compared every ward number.

By Senator MoNAUGHTON:

Q. And checked? A. And checked three times during the year.

By Senator FASSETT:

Q. Then if the person has been taxed all along on his house for ten years it couldn't be left off the eleventh year without attention being called to it? A. I never heard of a case.

Q. I ask you if it is possible under your system of bookkeeping? A. Under our system of bookkeeping we don't allow any deputy or clerk to make an examination of his own ward number; we give it to another deputy.

Q. Is that shifting done in this way, for instance the man who assesses the first ward we might give that to the man who assesses the sixteenth ward, that is the first ward is checked off by the man who assesses the sixteenth ward? A. Our numbers are so small in the tax office that we have to do that to fill in.

Q. You said a little while ago that the attempt to tax personal property had become a farce? A. Yes, sir.

Q. Have you ever considered any means by which that condition of things could be remedied successfully?

Mr. IVINS.— Senator, if you will pardon me before he answers that, I think you will find illustrations which are themselves answers to your question in part, if he will describe the system that prevails in the office now and the difficulties under which they labor in trying to do it.

Senator FASSETT.— We will postpone that till to-morrow morning.

Mr. IVINS.— I will take up personal property in the morning.

Senator FASSETT.— We will have one session to-morrow from half-past 10 to quarter to 2 as it will be Friday.

Adjourned to-morrow morning at 10.30 o'clock.

### EXHIBIT No. 3 — OCTOBER 16, 1890.

#### RELATIVE ASSESSED VALUATION OF THE REAL AND PERSONAL ESTATE IN THE CITY AND COUNTY OF NEW YORK FOR 1889 AND 1890.

WARDS.	Assessed valuation 1889 real estate.		Assessed valuation 1890 real estate.	Increase real estate.
1.....	\$81,235,638	.....	\$84,844,538	\$3,608,900
2.....	35,058,685	.....	35,680,850	622,165
3.....	39,250,797	.....	39,695,570	444,773
4.....	13,681,753	.....	14,076,503	394,750
5.....	47,242,952	.....	47,620,220	377,268
6.....	25,117,100	.....	25,312,300	195,200
7.....	18,226,667	\$932,500	20,175,357	1,948,690
8.....	39,617,038	.....	40,153,088	536,050
9.....	30,974,780	.....	32,521,090	1,546,310
10.....	18,841,832	619,700	20,791,132	1,949,300
11.....	17,709,187	766,800	20,400,587	2,691,400
12.....	188,171,960	.....	208,335,125	20,163,165
13.....	11,457,279	573,200	13,263,229	1,805,950
14.....	25,395,292	.....	25,796,092	400,800
15.....	57,784,830	.....	59,174,880	1,390,050
16.....	39,501,450	.....	40,603,435	1,101,985
17.....	35,276,908	922,000	41,022,808	5,745,900
18.....	80,717,200	.....	82,139,600	1,422,400
19.....	221,231,400	.....	225,647,570	4,416,170
20.....	48,104,550	.....	49,587,900	1,483,350
21.....	91,241,100	.....	93,339,300	2,298,200
22.....	126,533,070	.....	133,312,290	6,979,229
23.....	25,891,261	.....	26,539,831	2,668,570
24.....	13,315,562	.....	15,836,703	2,521,141
Total..	\$1,331,578,291	.....	\$1,398,290,007	\$66,711,716

## PERSONAL ESTATE.

	Assessed valuation 1889 personal estate.	Assessed valuation 1890 personal estate.	Increase personal estate.
Resident .....	\$194,289,301	\$217,439,160	\$23,149,859
Non-resident.....	9,973,575	11,740,041	1,766,466
Shareholders of banks..	67,997,946	69,509,162	1,511,236
Total .....	\$272,260,822	\$298,688,363	\$26,427,561

Total real and personal estate for 1889.....	\$1,603,839,113
Total real and personal estate for 1890.....	1,696,978,390
Total increase .....	\$93,139,277

## DEPARTMENT OF TAXES AND ASSESSMENTS.

*Total assessed valuation for 1890.*

Real estate .....	\$1,398,290,007
Personal estate:	
Resident.....	\$217,439,160
Non-resident .....	11,740,041
Shareholders of banks .....	69,509,182
	298,688,383
Total .....	\$1,696,978,390

Exhibits 1, 2, 3, 4 and 4½ hereto annexed, are blank forms used in connection with the business of the department and referred to in said interview.

The following is a detailed statement of the several employes of this department as shown by the pay-roll for the month of July, 1890, on file in the comptroller's office, and the rate of annual compensation paid to each:

## PAY-ROLL, JULY 1890.

	Rate per annum.
Michael Coleman, president.....	\$5,000
Thomas L. Feitner, commissioner .....	4,000
Edward L. Parris, commissioner .....	4,000
Floyd T. Smith, secretary .....	3,000
Frank J. Bell, deputy tax commissioner.....	3,500
Elisha J. Cadwell, deputy tax commissioner.....	3,000
William Kellock, deputy tax commissioner .....	2,700
Twiss Birmingham, deputy tax commissioner .....	2,700



	Rate per annum.
James C. Strahan, deputy tax commissioner.....	\$2,700
Frederick C. Wagner, deputy tax commissioner.....	2,700
James W. Connolly, deputy tax commissioner .....	2,700
David Murray, deputy tax commissioner .....	2,700
Henry Autenrieth, deputy tax commissioner.....	2,700
James D. Ames, deputy tax commissioner .....	2,700
Henry Bracken, deputy tax commissioner .....	2,700
James Deignan, deputy tax commissioner.....	2,700
Germain Hanschal, deputy tax commissioner .....	2,700
Anthony McOwen, deputy tax commissioner.....	2,700
Henry A. Perry, deputy tax commissioner.....	2,700
John Martine, deputy tax commissioner .....	1,500
Richard G. Newkirk, clerk .....	2,000
Walter C. Rogers, clerk .....	1,500
John C. Keating, clerk .....	1,500
George W. Cornell, clerk.....	1,500
William Hastings, clerk .....	1,500
John A. Whitney, clerk.....	1,500
John A. Cooley, clerk .....	1,500
James P. Conner, clerk.....	1,500
Charles J. Chapman, clerk .....	1,500
Hugh J. Kelly, clerk.....	1,500
Edward P. Carroll, clerk.....	1,500
Charles B. Kehoe, clerk.....	1,500
Peter J. Kelly, clerk .....	1,500
Francis A. Reicard, clerk... ..	1,500
Edward Tyrrell, clerk ....	1,500
James A. Hamilton, clerk.....	1,500
Frank Van Outersterp, clerk .....	1,200
Edward T. Taggard, law clerk.....	1,600
John O'Conner, janitor .....	1,200
Bernard Reilly, map clerk.....	900
Lloyd R. Hubbs, office boy.....	820
Henry W. Vogel, surveyor .....	2,700
James A. Pyne, assistant surveyor.....	1,500
James A. Strong, stenographer and typewriter.....	600
Total .....	<hr/> \$95,620 <hr/>

## BOARD OF ASSESSORS.

Edward Gilon, assessor.....	\$3,000
Patrick M. Haverty, assessor*.....	3,000

	Rate per annum.
Charles E. Wendt, assessor .....	\$3,000
Edward Cahill, assessor .....	3,000
William —, secretary .....	2 800
Total .....	<u>\$14,800</u>

The following is a comparative statement of the total amount paid annually in this department for salaries of commissioners, deputies, clerks, etc., since 1880:

1881.....	\$80,400 60
1882.....	82,627 16
1883.....	84,982 10
1884.....	88,132 90
1885.....	86,358 45
1886.....	86,533 30
1887.....	87,337 04
1888....	88,622 27
1889.....	95,686 42
1890 (Based on pay-roll for July, 1890) .....	<u>95,620 00</u>

And for board of assessors:

1881.....	\$15,500 00
1882.....	16,300 00
1883.....	16,300 00
1884.....	18,600 00
1885.....	17,766 62
1886.....	16,600 00
1887.....	16,600 00
1888.....	16,200 00
1889.....	14,800 00
1890.....	<u>14,800 00</u>

#### REAL ESTATE.

From the report of the commissioners for the quarter ending June 30, 1890, it appears that the number of pieces or plots of real estate assessed in

1881, was .....	\$152,630 00
1882, was .....	152,211 00
1883, was .....	152,182 00
1884, was .....	156,333 00
1885, was .....	159,432 00

1886, was .....	\$161,617 00
1887, was .....	161,334 00
1888, was .....	161,572 00
1889, was .....	161,402 00
1890, was .....	161,507 00

And the number of parties from whom complaints were received on account of excessive assessments on real property during the time the books were open to receive such complaints (from the second Monday in January to the thirtieth day of April) was:

1881.....	2,478
1882.....	1,262
1883.....	1,133
1884.....	910
1885.....	1,511
1886.....	907
1887.....	637
1888.....	625
1880.....	559
1890.....	680

#### PERSONAL ESTATE.

"The following table exhibits the number of names assessed for personal property, the number of applications for relief, the number proving to be non-assessable, and the number passed to the receiver's books for the years 1881 to 1890 inclusive," as shown by the several reports of the commissioner for those years.

#### INDIVIDUALS.

YEARS.	Names on rolls at opening.	Applications for reduction.	Erased not liable.	Retained on receiver's books.
1881 .....	21,294	11,540	7,338	13,956
1882 .....	20,247	10,048	8,581	11,666
1883 .....	20,779	10,055	8,888	11,891
1884 .....	19,657	8,496	7,441	12,216
1885 .....	21,823	10,638	9,632	12,191
1886 .....	20,135	9,209	8,230	11,905
1887 .....	23,815	11,891	10,885	12,930
1888 .....	23,682	11,579	10,494	13,188
1889 .....	26,184	13,174	11,469	14,715
1890 .....	24,030	12,320	10,140	13,890

## CORPORATIONS.

YEAR.	Names on rolls at opening.	Retained on receiver's books.
1886 .....	.....	784
1887 .....	1,995	958
1888 .....	2,168	994
1889 .....	2,335	1,208
1890 .....	2,442	1,320

## BANKS AND SHAREHOLDERS.

YEAR.	Number of banks.	Number of shareholders on rolls at opening.	Erased, not liable.	Retained on receiver's books.
1881 .....	70	22,043	1,065	20,978
1882 .....	71	22,367	1,189	21,178
1883 .....	71	22,532	1,183	21,349
1884 .....	74	22,312	1,203	21,109
1885 .....	75	21,946	1,472	20,474
1886 .....	73	20,405	1,185	19,220
1887 .....	74	20,896	1,049	19,220
1888 .....	81	23,762	1,500	19,847
1889 .....	87	22,551	1,478	22,262
1890 .....	90	22,728	1,751	21,073
.....	.....	.....	.....	20,977

## TOTAL NUMBER OF ASSESSMENTS.

YEAR.	Number of pieces of real estate.	Number of names on personal books.	Number of shareholders of banks.	Corporations.	Total number of assessments.
1881 .....	152,630	13,956	20,978	.....	187,564
1882 .....	152,211	11,666	21,178	.....	185,055
1883 .....	152,182	11,891	21,349	.....	185,422
1884 .....	156,333	12,216	21,109	.....	189,658
1885 .....	159,432	12,191	20,474	.....	192,097
1886 .....	161,617	11,905	19,220	784	193,526
1887 .....	161,334	12,930	19,847	954	195,065
1888 .....	161,572	13,188	22,262	994	198,016
1889 .....	161,402	14,715	21,073	1,208	189,398
1890 .....	161,507	13,890	20,977	1,320	197,694



COMPARATIVE STATEMENT OF RESIDENT AND NON-RESIDENT PERSONAL ESTATE  
FROM 1881 TO 1890, INCLUSIVE.

*Resident, including corporations.*

YEAR.	Assessed valuations at opening.	Erased, not liable.	Retained on receiver's books.
1881 .....	\$2,348,443,273	\$2,209,830,243	\$138,613,030
1882 .....	2,387,843,805	2,258,681,704	129,162,101
1883 .....	2,003,860,031	1,876,181,489	127,678,542
1884 .....	1,581,450,549	1,439,825,140	141,625,409
1885 .....	1,494,981,898	1,362,723,968	132,257,930
1886 .....	1,451,267,558	1,302,797,028	148,470,530
1887 .....	1,343,049,799	1,162,656,328	180,393,471
1888 .....	1,352,222,040	1,176,026,784	176,195,256
1889 .....	1,591,067,825	1,396,778,524	194,289,301
1890 .....	1,579,265,460	1,361,826,300	217,439,160

*Non-resident.*

1881 .....	30,348,540	18,173,065	12,175,475
1882 .....	33,569,788	21,993,817	11,575,971
1883 .....	34,345,353	23,629,820	10,715,533
1884 .....	53,994,075	43,333,503	10,660,572
1885 .....	50,361,072	40,691,430	9,669,642
1886 .....	48,703,345	39,159,497	9,543,848
1887 .....	54,868,298	44,947,905	9,920,393
1888 .....	54,557,560	44,704,739	9,852,821
1889 .....	55,918,390	45,944,815	9,973,575
1890 .....	59,534,856	47,794,815	11,740,041

*Total resident and non-resident.*

1881 .....	2,378,791,813	2,228,003,308	150,788,505
1882 .....	2,421,413,593	2,280,675,521	140,738,072
1883 .....	2,038,205,384	1,899,811,309	138,394,075
1884 .....	1,635,444,624	1,483,158,643	152,285,981
1885 .....	1,545,342,970	1,403,415,398	141,927,572
1886 .....	1,499,970,903	1,341,956,525	158,014,378
1887 .....	1,397,918,097	1,207,604,233	190,313,864
1888 .....	1,406,779,600	1,220,731,523	186,048,077
1889 .....	1,646,986,215	1,442,723,339	204,262,876
1890 .....	1,638,800,316	1,409,621,115	229,179,201

The following tabulation shows the amount originally recorded for the assessment of personal property belonging to individuals, both resident and non-resident, the amount sworn off, and the amount retained upon the books for assessment:

YEAR.	Original record for assessment.	Amount erased not liable.	Amount retained upon receivers' books.
1885 .....	\$184,040,270	\$85,989,863	\$98,050,407
1886 .....	184,228,403	80,204,736	104,023,667
1887 .....	203,983,497	95,591,091	108,392,406
1888 .....	207,393,020	95,035,999	112,357,021
1889 .....	220,802,815	102,858,285	117,944,530
1890 .....	230,415,466	105,632,405	124,783,061

Exhibit 4, hereto annexed, contains a "Statement of the assessments of shareholders of banks for the year 1890."

Exhibit 6, hereto annexed, shows the assessed valuation of real estate by wards in 1880 and 1890, the yearly increase or decrease and the net increase since 1880.

Exhibit 7, hereto annexed, shows the assessed valuation of personal estate, resident, non-resident and shareholders in banks in 1880 and 1890, the yearly increase or decrease and the net increase or decrease since 1880.

YEAR.	Real estate.	Personal estate.	Total valuation.	Amount of tax.
1805...	.....	.....	\$25,645,367	\$127,054
1806...	.....	.....	26,549,330	127,814
1807...	.....	.....	24,959,955	129,155
1808...	.....	.....	25,118,720	132,948
1809...	.....	.....	24,782,267	139,027
1810...	.....	.....	25,486,370	129,727
1811...	.....	.....	26,045,730	176,978
1812...	.....	.....	26,240,040	174,920
1813...	.....	.....	27,690,230	174,727
1814...	.....	.....	28,091,497	214,225
1815...	.....	.....	81,637,042	361,285
1816...	.....	.....	82,075,200	344,802
1817...	.....	.....	78,893,735	374,311
1818...	.....	.....	80,254,091	335,994
1819...	.....	.....	79,113,061	329,453
1820...	.....	.....	69,530,753	339,891
1821...	.....	.....	67,286,070	367,215
1822...	.....	.....	71,225,141	374,397
1823...	.....	.....	70,949,280	488,755
1824...	.....	.....	83,075,676	304,857
1825...	.....	.....	101,160,046	387,442
1826...	\$64,804,050	\$72,434,981	107,238,951	283,759
1827...	72,717,770	48,649,167	112,211,926	437,692
1828...	77,183,880	33,879,633	114,019,333	485,751
1829...	76,130,430	33,672,636	111,803,066	507,107
1830...	87,603,580	37,684,938	129,283,918	509,178

## FROM 1815 STATE TAX INCLUDED.

YEAR.	Real estate.	Personal estate.	Total valuation.	Amount of tax.
1831...	\$93,896,833	\$31,968,194	\$137,660,259	\$572,104
1832...	104,196,668	44,741,723	144,902,328	665,385
1833...	114,124,566	42,806,976	166,491,542	971,854
1834...	128,249,280	58,299,281	186,541,511	835,605
1835...	143,742,425	64,991,278	218,723,703	965,602
1836...	233,732,393	75,758,617	309,500,020	1,000,302
1837...	196,450,189	67,207,241	263,747,350	1,244,972
1838...	294,543,359	69,609,582	264,152,941	1,480,993
1839...	196,940,154	73,920,885	270,869,019	1,352,826
1840...	187,221,714	66,911,891	232,248,515	1,354,835
1841...	186,359,948	64,843,692	231,174,920	1,394,136
1842...	176,513,072	61,282,839	287,803,631	2,011,382
1843...	164,855,314	64,274,765	227,229,079	1,759,516
1844...	171,937,591	64,739,552	236,727,143	1,988,128
1845...	177,207,990	62,787,527	232,995,517	2,006,191
1846...	181,480,534	61,471,470	244,932,004	2,526,146
1847...	187,313,386	59,837,913	247,153,299	2,581,776
1848...	193,029,076	61,164,447	254,163,523	2,715,510
1849...	197,741,919	58,455,224	256,197,143	3,005,762
1850...	207,142,576	78,919,240	266,001,816	3,230,085
1851...	227,015,856	93,095,001	320,110,857	2,924,455
1852...	253,278,384	98,490,042	351,768,426	3,380,511
1853...	294,637,298	118,994,137	413,631,382	5,066,698
1854...	330,300,396	131,721,338	462,021,734	4,845,386
1855...	336,975,866	150,022,312	486,998,278	5,843,822
1856...	340,972,098	170,744,393	511,740,491	7,075,423
1857...	352,958,803	168,216,449	521,175,252	8,111,758
1858...	348,346,296	162,847,994	531,194,290	8,621,091
1859...	378,951,930	172,697,637	577,230,956	9,758,507
1860...	393,533,619	172,601,637	577,230,956	9,758,507
1861...	406,963,665	174,624,306	580,579,971	11,427,632
1862...	399,551,314	172,416,031	571,967,345	9,906,271
1863...	402,196,652	192,000,161	594,196,813	11,556,672
1864...	410,695,485	223,920,405	634,675,890	13,705,092
1865...	427,360,884	181,423,471	608,784,355	.....
1866...	478,994,934	257,994,974	736,989,908	.....
1867...	555,447,062	276,222,751	831,669,813	.....
1868...	623,235,305	284,580,224	907,815,529	24,147,893
1869...	684,183,918	281,142,696	965,326,614	21,912,914
1870...	742,103,075	305,285,374	1,047,388,449	23,566,240
1871...	769,306,410	306,947,223	1,076,253,633	23,362,527
1872...	797,125,115	306,949,422	1,104,074,537	32,036,290
1873...	836,691,980	292,447,643	1,129,139,623	28,228,490
1874...	881,547,995	272,481,181	1,154,029,176	32,312,816
1875...	883,643,545	217,300,154	1,100,943,699	32,367,744
1876...	892,428,165	218,026,178	1,111,054,343	31,109,521
1877...	895,063,933	206,026,160	1,101,092,093	29,178,940
1878...	900,855,700	197,332,075	1,098,387,775	28,008,888

YEAR.	Real estate.	Personal estate.	Total valuation.	Amount of tax.
1879...	\$918,134,380	\$175,934,955	\$1,094,069,335	\$28,226,988
1880...	942,571,690	201,194,037	1,143,765,727	28,937,272
1881...	976,735,199	209,212,899	1,185,948,098	31,071,840
1882...	1,000,003,816	198,272,382	1,233,476,398	27,684,427
1883...	1,079,130,669	197,546,495	1,276,677,164	29,167,029
1884...	1,119,761,597	218,536,746	1,338,298,343	29,991,172
1885...	1,168,443,137	202,673,866	1,371,117,003	32,853,528
1886...	1,203,941,065	217,027,221	1,420,968,286	32,421,550
1887...	1,254,491,849	253,148,814	1,507,640,663	32,370,696
1888...	1,302,818,879	250,623,552	1,553,442,431	34,329,860
1889...	1,331,578,291	272,260,822	1,603,839,113	31,145,370
1890...	1,398,290,007	298,688,383	1,696,978,390	33,212,034

Year.	Rate.
1805.....	.0500
1806.....	.04850
1807.....	.05200
1808.....	.05500
1809.....	.05600
1810.....	.06400
1811.....	.06800
1812.....	.06700
1813.....	.06300
1814.....	.02600
1815.....	.04150
1816.....	.04200
1817.....	.04700
1818.....	.04200
1819.....	.04150
1820.....	.04900
1821.....	.04950
1822.....	.05269
1823.....	.05950
1824.....	.04750
1825.....	.03825
1826.....	.....
1827.....	.....
1828.....	.....
1829.....	.....
1830.....	.....
1831.....	.....



Year.	Rate.
1832.....	.....
1833.....	.....
1834.....	.....
1835.....	.....
1836.....	.....
1837.....	.....
1838.....	.....
1839.....	.....
1840.....	.05470
1841.....	.05672
1842.....	.08644
1843.....	.07920
1844.....	.08616
1845.....	.08960
1846.....	1.0510
1847.....	1.0536
1848.....	1.0780
1849.....	1.1832
1850.....	1.1375
1851.....	.0919
1852.....	.09670
1853.....	1.2342
1854.....	1.0560
1855.....	1.2060
1856.....	1.3820
1857.....	1.5564
1858.....	1.6303
1859.....	1.79216
1860.....	1.69487
1861.....	2.6000
1862.....	1.7344
1863.....	2.0350
1864.....	2.16
1865.....	2.99
1866.....	2.30
1867.....	2.67
1868.....	2.66
1869.....	2.27
1870.....	2.25
1871.....	2.17
1872.....	2.90
1873.....	2.50

Year.	Rate.
1874.....	2.80
1875.....	2.94
1876.....	2.80
1877.....	2.65
1878.....	2.55
1879.....	2.58
1880.....	2.53
1881.....	2.62
1882.....	2.25
1883.....	2.29
1884.....	2.25
1885.....	2.40
1886.....	2.29
1887.....	2.16
1888.....	2.22
1889.....	1.95
1890.....	1.97

LOW CORPORATION RATE.

1882.....	2.0152
1883.....	2.0324
1884.....	1.9245
1885.....	2.2329
1886.....	1.9945
1887.....	1.8646
1888.....	1.9483
1889.....	1.6863
1890.....	1.6908

EXHIBIT 1.

[10 A. M. to 2 P. M., except Saturday, then 10 A. M. to 12 M.]

*Please bring this notice with you.*

N. R. Book. Line.....Page.....  
Mr.....  
No.....

DEPARTMENT OF TAXES AND ASSESSMENTS,  
STAATZ ZEITUNG BUILDING, TRYON ROW, }  
NEW YORK, January 13, 1890.

You are hereby notified, that under the provisions of an act passed February 27, 1855, you have been assessed for personal estate, for the year 1890, at \$....., being the amount invested in your business in the city and county of New York, and that the same, if erroneous, must be corrected before the commissioners, on or before

the thirtieth day of April next, or it will be confirmed at that amount, from which there will be no appeal, and the tax for the same will be collected from the property of the first or association to which you belong.

By order of the board.

FLOYD T. SMITH,

*Secretary.*

### EXHIBIT 2.

[Hours for correction of assessment, 10 A. M. to 2 P. M. except Sundays, then 10 A. M. to 12 M.]

*Please bring this notice with you.*

R. book, line..... page.....  
Mr.....  
No.....

DEPARTMENT OF TAXES AND ASSESSMENTS,  
STAATZ ZEITUNG BUILDING, TRYON ROW, }  
NEW YORK, January 13, 1890. }

You are hereby notified that your personal estate for 1890, is assessed at \$....., exclusive of bank stock, and that the same, if erroneous, must be corrected before the commissioners, on or before the thirtieth day of April next, or it will be confirmed at that amount, from which there will be no appeal.

By order of the board.

FLOYD T. SMITH,

*Secretary.*

### EXHIBIT 3.

DEPARTMENT OF TAXES AND ASSESSMENTS, }  
COMMISSIONERS' OFFICE, }  
STAATZ ZEITUNG BUILDING, TRYON ROW. }

*Please state the full name of the corporation.*

Statement made and delivered to the commissioners of taxes and assessments of the city and county of New York, for and in behalf of the ..... showing its condition for the purpose of assessment on the second Monday in January, 189..

The company named in this statement is an organization under the laws of the State of.....having its principal office at..... The amount of capital it has invested in business in the city of New York, including the value of its office

furniture, safe, samples, fixtures, money in bank and otherwise used in business will not exceed the sum of.....; office in the city of New York, .....street.

The principal office or the place of transacting the financial business of the said corporation is situated in. ....

CITY OF NEW YORK, ss. :

I, ....., the ..... of the said corporation, being duly sworn, do hereby certify and declare that the foregoing statement is in all respects, just and true.

Sworn to before me, this.... }  
day of ....., 189.. }

By chapter 176, section 6 of the Laws of 1851, the commissioners are empowered to examine, under oath, the person representing the corporation, if they deem it necessary, to obtain any fuller or further particulars as to its property or condition.

(Indorsed.)

Line No.....  
Statement for 189..  
Assessment fixed at \$.....

.....  
.....  
*Commissioners of Taxes and Assessments.*

EXHIBIT 4.

DEPARTMENT OF TAXES AND ASSESSMENT, }  
COMMISSIONERS' OFFICE, }  
STAATZ ZEITUNG BUILDING, TRYON ROW. }

*Please state the full name of the corporation.*

Statement made and delivered to the commissioner of taxes and assessments of the city and county of New York, for and in behalf of the..... showing its condition for the purpose of assessment on the second Monday of January, 189..

Total gross assets..... \$  
Capital stock actually paid in, or secured to be paid in..  
Amount of surplus earnings .....  
Rate of dividend for last year, or last annual dividend..



Is the company assessed by the State under chapter 361, Laws of 1881, and the amendatory acts?

Liabilities in detail as follows:

Assessed value of real estate describing particularly by ward numbers:

Amounts invested in the stocks of other corporations  
which are taxed upon their capital..... \$  
Amount invested in U. S. securities.....

(If the stock of the company is worth less than par, state the actual value, and give the facts under oath, which will justify such estimate of its value.)

The principal office or the place of transacting the financial business of the said corporation is situated in the..... ward of the city of New York, at No ..... street.

CITY OF NEW YORK, ss.:

I, ....., the ..... of the said corporation being duly sworn do hereby certify and declare that the foregoing statement is in all respects just and true.

Sworn to before me this.... }  
day of ....., 189.. }

.....

By chapter 176, section 6 of the Laws of 1851, the commissioners are empowered to examine, under oath the person representing the corporation, if they deem it necessary, to obtain any fuller or further particulars as to its property or condition.

(Indorsed.)

Statement of the.....

For 189..

Assessment fixed at \$.....

.....

.....

*Commissioners of Taxes and Assessments.*

# EXHIBIT 4 $\frac{1}{2}$ .

Statement made and delivered to the commissioners of taxes and assessments of the city and county of New York for and in behalf of the ....., a corporation which is organized as a telegraph company, under the laws of the State of New

York, and owns and uses a line of electric telegraph, partly within and partly beyond the limits of New York State, showing its condition for the purpose of assessment, on the second Monday of January, 18.., in pursuance of the provisions of the statutes of the State of New York.

Amount paid for works within New York State, including poles, wires and their connections.....  
Deduct assessed value of poles and wires, etc., and their connections, which are taxed in New York State as real estate .....  
Location of poles, wires, etc., and their connections, that are taxable as real estate in New York city, and the assessed value thereof.....

The principal office, or the place of transacting the financial business of the said corporation, is situated in the ..... ward of the city of New York, at No.. ..... street.

STATE, CITY AND COUNTY OF NEW YORK:

..... of the said corporation, being duly sworn, do hereby certify and declare that the foregoing statement is in all respects just and true to the best of my knowledge, information and belief.

Sworn to before me this .... }  
day of .....18.. }  
.....

(Indorsed.)

Statement of the.....  
For 18..  
Assessment fixed at \$.....

.....  
.....  
*Commissioners of Taxes and Assessments.*

# EXHIBIT 5.

## STATEMENT OF THE ASSESSMENTS OF SHAREHOLDERS OF BANKS FOR THE YEAR 1890.

NAME OF BANK.	Ward.	Number of shares.	Par value of shares.	Capital.	Gross value share.	Gross value.
American Exchange National .....	1	50,000	\$100	\$5,000,000	\$114 00	\$5,700,000
Bank of America .....	1	30,000	100	3,000,000	142 40	4,272,000
Bank of North America .....	1	10,000	70	700,000	96 33	963,300
Bank of New York, N. B. A. ....	1	20,000	100	2,000,000	150 00	3,000,000
Bank of the Metropolis .....	18	3,000	100	300,000	197 00	591,000
Bank of the State of New York ..	1	12,000	100	1,200,000	110 00	1,320,000
Bank of Harlem .....	12	1,000	100	100,000	85 00	85,000
Bank of New Amsterdam .....	22	2,500	100	250,000	95 00	237,500
Bowery .....	14	2,500	100	250,000	209 03	523,825
Central National .....	6	20,000	100	2,000,000	107 00	2,140,000
Chemical National .....	3	3,000	100	300,000	1,769 36	5,308,080
Chase National .....	1	5,000	100	500,000	167 00	835,000
Chatham National .....	2	18,000	25	450,000	44 08	793,440
Continental National .....	1	10,000	100	1,000,000	104 44	1,044,400
Columbia .....	19	2,000	100	200,000	91 00	182,000
Corn Exchange .....	1	10,000	100	1,000,000	176 03	1,760,300
Commercial National .....	1	3,000	100	300,000	95 00	285,000
Clinton .....	5	2,000	100	200,000	93 00	186,000
East River National .....	15	10,000	25	250,000	30 24	302,400
Eleventh Ward .....	11	4,000	25	100,000	46 00	184,000
East Side .....	13	1,000	100	100,000	109 00	109,000
Empire State .....	15	2,500	100	250,000	110 00	275,000
Equitable .....	21	1,000	100	100,000	100 00	100,000
First National .....	1	5,000	100	500,000	1,104 30	5,521,500
Fourth National .....	1	32,000	100	3,200,000	116 00	3,712,000

Fifth National .....	18	1,500	100	150,000	224	50	336,750
Fifth Avenue .....	19	1,000	100	100,000	641	00	641,000
Fourteenth Street .....	18	1,000	100	100,000	144	00	144,000
Gallatin National .....	1	20,000	50	1,000,000	104	16	2,083,200
Gansevoort ....	9	4,000	50	200,000	44	00	176,000
Garfield National .....	18	2,000	100	200,000	181	00	362,000
Germania .....	17	2,000	100	200,000	225	00	450,000
German-American .....	1	10,000	75	750,000	81	66	816,600
German Exchange .....	15	2,000	100	200,000	243	00	486,000
Greenwich .....	9	8,000	25	200,000	31	00	248,000
Hanover National .....	1	10,000	100	1,000,000	165	33	1,653,300
Home .....	22	1,000	100	100,000	146	00	146,000
Homestead .....	22	1,000	100	100,000	94	00	94,000
Hamilton .....	12	1,500	100	150,000	127	00	190,500
Hudson River .....	22	2,000	100	200,000	146	00	292,000
Exporters and Traders' National .....	3	15,000	100	1,500,000	324	20	4,863,000
Interstate National .....	3	2,000	100	200,000	100	00	200,000
Irving National .....	3	10,000	50	500,000	62	62	626,200
Leather Manufacturers' National .....	1	6,000	100	600,000	154	53	927,180
Lenox Hill .....	19	1,000	100	100,000	93	00	93,000
Lincoln National .....	19	6,000	100	300,000	140	00	420,000
Madison Square .....	18	2,000	100	200,000	93	00	186,000
Mount Morris .....	12	1,000	100	100,000	248	00	248,000
Manhattan Company .....	1	41,000	50	2,500,000	67	58	2,770,780
Market and Fulton National .....	2	7,500	100	750,000	165	00	1,237,500
Mechanics' National .....	1	80,000	25	2,000,000	41	30	3,304,000
Mercantile National .....	3	10,000	100	1,000,000	142	63	1,426,300
Mechanics' and Traders' .....	14	8,000	25	200,000	37	00	296,000
Merchants' Exchange National .....	3	12,000	50	600,000	47	00	564,000
Merchants' National .....	1	40,000	50	2,000,000	61	00	2,440,000
Murray Hill .....	19	2,000	50	100,000	130	00	260,000



EXHIBIT 5 — (Continued).

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[SENATE,

NAME OF BANK.	Ward.	Number of shares.	Par value of shares.	Capital.	Gross value share.	Gross value.
New York National Exchange .....	3	3,000	\$100	\$300,000	\$121 00	\$363,000
Nassau .....	2	10,000	50	500,000	55 33	553,300
National City .....	1	10,000	100	1,000,000	286 83	2,868,300
National Bank of Commerce .....	1	50,000	100	5,000,000	143 66	7,183,000
National Bank of Deposit .....	2	3,000	100	300,000	106 00	318,000
National Bank of the Republic .....	1	15,000	100	1,500,000	123 76	1,856,400
National Park .....	2	20,000	100	2,000,000	160 50	3,210,000
National Broadway .....	3	40,000	25	1,000,000	55 50	2,220,000
National Butchers' and Drivers' .....	14	12,000	25	300,000	40 00	480,000
National Citizens' .....	5	24,000	25	600,000	35 00	840,000
National Shoe and Leather .....	3	5,000	100	500,000	117 64	588,200
New York County National .....	9	2,000	100	200,000	152 00	304,000
New York Produce Exchange .....	1	10,000	100	1,000,000	100 00	1,000,000
North River .....	3	8,000	30	240,000	32 00	256,000
Ninth National .....	5	7,500	100	750,000	106 00	795,000
Nineteenth Ward .....	19	1,000	100	100,000	96 70	96,700
Oriental .....	14	12,000	25	300,000	46 00	552,000
Pacific .....	14	8,454	50	422,000	75 50	638,277
People's .....	8	8,000	25	200,000	45 85	366,800
Phoenix's National .....	1	50,000	20	1,000,000	2,611 88	1,305,940
Riverside .....	22	1,000	100	100,000	89 00	89,000
Seaboard National .....	1	5,000	100	500,000	96 00	480,000
Second National .....	18	3,000	100	300,000	119 33	357,990
Seventh National .....	2	3,000	100	300,000	100 33	300,990
St. Nicholas .....	1	5,000	100	500,000	118 26	591,300
Sixth National .....	21	2,000	100	200,000	93 00	186,000

Third National .....	1	10,000	100	1,000,000	95 37	953,700
Traders' National .....	5	25,000	40	1,000,000	40 76	1,019,000
Twelfth Ward .....	12	2,000	100	200,000	110 00	220,000
Twenty-third Ward .....	23	1,000	100	100,000	92 00	92,000
Union Square .....	18	2,000	100	200,000	99 00	198,000
United States National .....	1	5,000	100	500,000	163 00	815,000
Western National .....	1	35,000	100	3,500,000	91 15	3,190,250
West Side .....	20	2,000	100	200,000	163 00	326,000
Total .....	.....	\$966,954	.....	\$65,912,700	.....	\$102,026,202

## EXHIBIT No. 5 — (Continued).

NAME OF BANK.	Ward.	Interest in clearing house.	Real estate.	Total real estate.	Assessed value per share.	Assessed to shareholders.
American Exchange National .....	1	\$16,500	\$483,900	\$500,000	\$104	\$5,200,000
Bank of America .....	1	9,900	872,100	882,000	113	3,390,000
Bank of North America .....	1	3,300	.....	3,300	96	960,000
Bank of New York, N. B. A. ....	1	9,900	370,100	580,000	121	2,420,000
Bank of the Metropolis .....	18	3,325	11,675	15,000	192	576,000
Bank of the State of New York ..	1	6,600	221,400	228,000	91	1,092,000
Bank of Harlem .....	12	.....	.....	.....	85	85,000
Bank of New Amsterdam .....	22	.....	.....	.....	95	237,500
Bowery .....	14	825	18,000	18,825	202	505,000
Central National .....	6	6,600	453,400	460,000	84	1,680,000
Chemical National .....	3	990	276,090	277,080	1,677	5,031,000
Chase National .....	1	.....	.....	.....	167	835,000
Chatham National .....	2	1,440	.....	1,440	44	792,000
Continental National .....	1	4,954	649,450	654,400	39	390,000
Columbia .....	19	.....	.....	.....	91	182,000
Corn Exchange .....	1	3,300	137,000	140,300	162	1,620,000
Commercial National .....	1	.....	.....	.....	95	285,000
Clinton .....	5	.....	.....	.....	93	186,000
East River National .....	15	1,155	81,245	82,400	22	220,000
Eleventh Ward .....	11	.....	24,000	24,000	40	160,000
East Side .....	13	.....	.....	.....	109	109,000
Empire State .....	15	.....	.....	.....	110	275,000
Equitable .....	21	.....	.....	.....	100	100,000
First National .....	1	1,650	499,850	501,500	1,004	5,020,000
Fourth National .....	1	16,500	495,500	512,000	100	3,200,000

Fifth National.....	18	.....	54,750	54,750	188	195,332
Fifth Avenue.....	19	.....	150,000	150,000	491	68,740
Fourteenth Street*.....	18	.....	.....	.....	144	52,412
Gallatin National.....	1	18,150	325,650	343,200	87	1,740,000
Gansevoort.....	9	.....	.....	.....	44	176,000
Garfield National.....	18	.....	.....	.....	131	362,000
Germania.....	17	.....	44,000	44,000	263	406,000
German-American.....	1	4,840	11,760	16,600	80	800,000
German Exchange.....	15	.....	62,000	62,000	212	424,000
Greenwich.....	9	660	15,340	16,000	29	232,000
Hanover National.....	1	3,300	.....	3,300	165	1,650,000
Home.....	22	.....	20,000	20,000	126	126,000
Homestead.....	22	.....	.....	.....	94	94,000
Hamilton.....	12	.....	.....	.....	127	190,500
Hudson River.....	22	.....	100,000	100,000	96	192,000
Exporters and Traders' National.....	3	4,950	223,050	228,000	309	4,635,000
Interstate National.....	3	.....	.....	.....	100	200,000
Irving National.....	3	1,650	74,550	76,200	55	550,000
Leather Manufacturers' National.....	1	1,980	277,200	279,180	108	648,000
Lenox Hill.....	19	.....	.....	.....	93	93,000
Lincoln National.....	19	.....	.....	.....	140	420,000
Madison Square.....	18	.....	20,000	20,000	83	166,000
Mount Morris.....	12	.....	100,000	100,000	148	148,000
Manhattan Company.....	1	6,765	550,015	556,780	54	2,214,000
Market and Fulton National.....	2	5,280	258,220	262,500	130	975,000
Mechanics' National.....	1	6,600	577,400	584,000	34	2,720,000
Mercantile National.....	3	3,300	153,000	156,300	127	1,270,000
Mechanics and Traders'.....	14	1,980	14,020	16,000	35	280,000
Merchants' Exchange National.....	3	3,300	164,700	168,000	33	396,000
Merchants' National.....	1	9,900	350,100	560,000	47	1,880,000
Murray Hill.....	19	.....	10,000	10,000	125	250,000



## EXHIBIT 5 — (Continued).

NAME OF BANK.	Ward.	Interest in clearing house.	Real estate.	Total real estate.	Assessed value per share.	Assessed to shareholders.
New York National Exchange.....	3	\$1,650	\$49,350	\$51,000	\$104	\$312,000
Nassau.....	2	3,300	.....	3,300	55	550,000
National City.....	1	3,300	385,000	388,300	248	2,480,000
National Bank of Commerce.....	1	33,000	600,000	633,000	131	6,550,000
National Bank of Deposit.....	2	.....	.....	.....	106	318,000
National Bank of the Republic.....	1	6,600	499,800	506,400	90	1,350,000
National Park.....	2	6,600	783,400	790,000	121	2,420,000
National Broadway.....	3	3,300	296,700	300,000	48	1,920,000
National Butchers and Drovers'.....	14	2,640	81,360	84,000	33	396,000
National Citizens'.....	5	1,980	214,020	216,000	26	624,000
National Shoe and Leather.....	3	3,300	229,900	233,200	71	355,000
New York County National.....	9	660	33,340	64,000	135	270,000
New York Produce Exchange.....	1	.....	.....	.....	100	1,000,000
North River.....	3	1,320	54,680	56,000	25	200,000
Ninth National.....	5	4,950	535,050	540,000	34	255,000
Nineteenth Ward.....	19	.....	9,700	9,700	87	87,000
Oriental.....	14	990	95,010	96,000	38	456,000
Pacific.....	14	1,394	62,011	63,405	68	574,872
People's.....	8	1,362	69,438	70,800	37	296,000
Phoenix National.....	1	5,940	.....	5,940	26	1,300,000
Riverside.....	22	.....	.....	.....	89	89,000
Seaboard National.....	1	.....	.....	.....	96	480,000
Second National.....	18	990	.....	990	119	357,000
Seventh National.....	2	990	.....	990	100	300,000
St. Nicholas.....	1	3,300	3,000	6,300	117	585,000

Sixth National	21	.....	.....	.....	.....
Third National	1	.....	.....	.....	93
Tradesmen's National	5	.....	.....	.....	94
Twelfth Ward	12	.....	.....	.....	30
Twenty-third Ward	23	.....	.....	.....	110
Union Square	18	.....	.....	.....	92
United States National	1	.....	.....	.....	99
Western National	1	.....	.....	.....	81
West Side	20	.....	.....	.....	91
Total	....	\$259,006	\$13,249,324	\$13,508,330	\$88,517,872

NAME OF BANK.	Ward.	Sworn off.	Exempt.	Total sworn off and exempt.	Amount of receiver's book.
American Exchange National.....	1	\$615,140	\$91,104	\$706,244	\$4,493,736
Bank of America.....	1	217,186	59,624	267,810	3,122,190
Bank of North America.....	1	184,800	1,920	186,720	773,080
Bank of New York, N. B. A.....	1	166,028	32,670	198,698	2,221,302
Bank of the Metropolis.....	18	122,496	.....	122,496	453,504
Bank of the State of New York.....	1	47,138	12,467	59,605	1,053,395
Bank of Harlem.....	12	3,400	.....	3,420	81,600
Bank of New Amsterdam.....	22	6,175	.....	6,175	231,325
Bowery.....	14	333,982	.....	333,982	171,018
Central National.....	6	99,521	2,688	102,209	1,577,791
Chemical National.....	3	253,227	8,385	261,612	4,769,388
Chase National.....	1	390,947	.....	390,947	444,053
Chatham National.....	2	509,872	.....	509,872	282,128
Continental National.....	1	144,569	3,042	147,611	242,389
Columbia.....	19	96,096	.....	96,096	85,904
Corn Exchange.....	1	147,582	7,614	155,196	1,464,804
Commercial National.....	1	117,800	.....	117,800	1,464,804
Clinton.....	5	58,660	.....	58,660	167,340
East River National.....	15	76,890	.....	76,890	143,110
Eleventh Ward.....	11	80,000	.....	80,000	80,000
East Side.....	13	26,845	.....	26,845	82,155
Empire State.....	15	3,850	.....	3,850	271,150
Equitable.....	21	.....	.....	.....	100,000
First National.....	1	4,439,610	21,900	4,459,610	560,390
Fourth National.....	1	218,742	.....	240,642	2,959,358
Fifth National.....	18	195,332	.....	195,332	86,668

Fifth Avenue . . . . .	19	68,740	66,740	422,260
Fourteenth Street . . . . .	18	52,412	52,412	91,588
Gallatin National . . . . .	1	21,804	39,204	1,700,796
Gansevoort . . . . .	9	54,800	54,800	121,200
Garfield National . . . . .	18	101,360	101,360	260,640
Germania . . . . .	17	181,973	181,973	224,027
German-American . . . . .	1	47,050	47,050	752,930
German Exchange . . . . .	15	297,504	297,504	126,496
Greenwich . . . . .	9	41,035	41,035	190,965
Hanover National . . . . .	1	672,135	673,290	976,710
Home . . . . .	22	85,177	85,177	40,823
Homestead . . . . .	22	76,866	76,866	15,134
Hamilton . . . . .	12	39,731	39,731	150,749
Hudson River . . . . .	22	13,920	13,920	178,080
Importers and Trader's National . . . . .	3	991,601	999,326	3,635,674
Interstate National . . . . .	3	112,500	112,500	87,500
Irving National . . . . .	3	120,630	121,750	428,250
Leather Manufacturers' National . . . . .	1	107,244	116,964	531,036
Lenox Hill . . . . .	19	.....	.....	93,000
Lincoln National . . . . .	19	22,740	22,740	397,260
Madison Square . . . . .	18	63,495	63,495	102,905
Mount Morris . . . . .	12	84,508	84,508	63,492
Manhattan Company . . . . .	1	91,692	161,406	2,052,594
Market and Fulton National . . . . .	2	63,830	65,130	909,870
Mechanics' National . . . . .	1	236,878	283,832	2,436,168
Mercantile National . . . . .	3	297,696	297,696	972,304
Mechanics' and Traders' . . . . .	14	155,729	156,324	123,676
Merchants' Exchange National . . . . .	3	102,630	108,702	287,298
Merchants' National . . . . .	1	185,979	245,669	1,634,331
Murray Hill . . . . .	19	103,125	103,125	146,875
New York National Exchange . . . . .	3	63,024	63,024	248,976



NAME OF BANK.	Ward.	Sworn off.	Exempt.	Total sworn off and exempt.	Amount of receiver's book.
Nassau.....	2	77,490	.....	77,490	472,510
National City.....	1	148,304	11,904	160,208	2,319,792
National Bank of Commerce.....	1	426,180	210,779	636,959	5,913,041
National Bank of Deposit.....	2	233,960	.....	233,960	84,040
National Bank of the Republic.....	1	125,640	10,890	136,530	1,213,470
National Park.....	2	186,703	12,826	199,529	2,220,471
National Broadway.....	3	738,617	.....	738,617	1,181,383
National Butchers' and Drovers'.....	14	73,029	2,871	75,900	320,100
National Citizens'.....	5	96,954	.....	96,954	527,046
National Shoe and Leather.....	3	39,760	6,816	46,576	308,424
New York County National.....	9	.....	.....	.....	270,000
New York Produce Exchange.....	1	198,100	.....	198,100	801,900
North River.....	3	16,325	.....	16,325	183,675
Ninth National.....	5	60,588	.....	60,588	194,412
Nineteenth Ward.....	9	28,710	.....	28,710	58,290
Oriental.....	14	60,632	1,520	62,152	393,848
Pacific.....	14	33,728	.....	33,728	541,144
People's.....	8	30,525	.....	30,525	265,475
Phoenix National.....	1	133,796	7,150	140,946	1,159,054
Riverside.....	22	46,903	.....	46,903	42,097
Seaboard National.....	1	334,316	.....	334,316	145,684
Second National.....	18	77,945	.....	77,945	279,055
Seventh National.....	2	1,000	.....	1,000	299,000
St. Nicholas.....	1	111,735	8,658	120,393	464,607
Sixth National.....	21	.....	.....	.....	186,000
Third National.....	1	216,590	.....	216,590	737,410

Trademen's National.....	5	137,210	1,500	138,710	611,290
Twelfth Ward.....	12	134,750	.....	134,750	85,250
Twenty-third Ward.....	23	28,336	.....	28,336	63,664
Union Square.....	18	68,210	.....	68,210	129,790
United States National.....	1	205,335	.....	205,335	199,665
Western National.....	1	1,014,590	9,100	1,023,690	2,161,310
West Side.....	20	49,140	.....	49,140	262,860
Total .....	....	\$18,270,837	\$737,853	\$19,003,690	\$69,509,182

# EXHIBIT 6.

SHOWING THE ASSESSED VALUATION OF REAL ESTATE BY WARDS IN 1880 AND 1890, THE YEARLY INCREASE OR DECREASE (THE LATTER BEING INDICATED IN RED INK) AND THE NET INCREASE SINCE 1880.

WARD.	Assessment for 1880.	Increase or decrease, 1881.	Increase or decrease, 1882.	Increase or decrease, 1883.	Increase or decrease, 1884.
First.....	\$53,056,526 00	\$1,849,640 00	\$5,606,056 00	\$4,249,437 00	\$1,610,643 00
Second.....	28,105,760 00	292,440 00	838,440 00	962,557 00	331,624 00
Third.....	33,817,920 00	224,580 00	1,223,060 00	420,791 00	302,530 00
Fourth.....	12,605,945 00	28,280 00	881,062 00	354,943 00	193,900 00
Fifth.....	38,949,250 00	195,350 00	1,695,200 00	1,872,402 00	918,416 00
Sixth.....	21,812,150 00	16,100 00	535,410 00	74,168 00	223,260 00
Seventh.....	15,931,050 00	53,000 00	226,558 00	41,966 00	177,550 00
Eighth.....	35,127,442 00	208,100 00	689,618 00	1,352,614 00	642,924 00
Ninth.....	26,922,570 00	168,080 00	332,873 00	549,441 00	820,850 00
Tenth.....	17,136,240 00	31,035 00	142,830 00	306,121 00	163,950 00
Eleventh.....	15,834,470 00	64,300 00	151,393 00	202,130 00	248,850 00
Twelfth.....	74,922,580 00	10,650,459 00	11,810,260 00	6,047,555 00	11,751,571 00
Thirteenth.....	9,742,350 00	45,500 00	165,550 00	11,885 00	84,100 00
Fourteenth.....	22,493,457 00	221,480 00	249,218 00	398,387 00	602,250 00
Fifteenth.....	51,418,860 00	19,940 00	1,383,320 00	1,608,200 00	673,718 00
Sixteenth.....	34,000,450 00	174,050 00	619,362 00	352,606 00	1,080,450 00
Seventeenth.....	32,703,480 00	209,320 00	396,623 00	286,419 00	124,600 00
Eighteenth.....	69,342,450 00	1,605,300 00	927,502 00	1,553,201 00	2,016,910 00
Nineteenth.....	138,544,965 00	13,758,410 00	24,252,923 00	7,237,250 00	9,102,400 00
Twentieth.....	38,591,150 00	679,100 00	431,570 00	2,991,602 00	1,576,350 00
Twenty-first.....	76,623,800 00	570,450 00	2,276,880 00	7,609,318 00	1,116,550 00

Twenty-second .....	71,986,340 00	2,700,135 00	4,858,560 00	5,538,129 00	5,949,442 00
Twenty-third .....	13,478,300 00	357,760 00	463,415 00	446,935 00	785,845 00
Twenty-fourth .....	9,423,685 00	81,080 00	73,060 00	178,740 00	132,245 00
Total assessment, 1880,	\$942,571,190 00	.....	.....	.....	.....
Net increase .....	.....	\$34,164,009 00	\$58,468,617 00	\$43,926,853 00	\$40,630,928 00
Net increase, 1880 & 1890,	.....	.....	.....	.....	.....



## EXHIBIT 6 — (Continued).

WARD.	Increase or decrease,				Increase or decrease, 1886.	Increase or decrease, 1887.	Increase or decrease, 1888.
	1886.						
First	\$13,264	514	00	\$846,051	00	\$737,242	\$1,195,908
Second	3,671	319	00	164,238	00	199,209	71,034
Third	2,305	119	00	91,429	00	240,836	253,065
Fourth	849	803	00	58,994	00	130,792	222,950
Fifth	1,909	060	00	457,734	00	379,495	326,542
Sixth	1,310	353	00	281,252	00	372,948	233,700
Seventh	288	467	00	330,787	00	334,611	504,460
Eighth	431	511	00	585,608	00	224,286	103,200
Ninth	245	952	00	208,224	00	522,833	652,850
Tenth	269	151	00	463,280	00	325,932	386,350
Eleventh	76	227	00	213,759	00	372,577	29,650
Twelfth	6,723	255	00	12,126	152	24,081	8,276,990
Thirteenth	161	730	00	179,070	00	307,050	398,691
Fourteenth	347	425	00	367,512	00	315,042	228,160
Fifteenth	125	108	00	648,975	00	424,312	829,102
Sixteenth	806	596	00	823,613	00	355,402	533,536
Seventeenth	135	511	00	300,163	00	517,414	584,900
Eighteenth	2,245	015	00	462,966	00	617,243	384,536
Nineteenth	5,501	020	00	6,621,487	00	6,717,485	7,051,920
Twentieth	684	723	00	687,181	00	830,094	909,000
Twenty-first	144	313	00	743,112	00	908,706	923,250
Twenty-second	4,146	283	00	8,549,551	00	9,856,997	8,605,963

Twenty-third.....	2,926,804 00	1,057,917 00	1,410,832 00	3,171,308 00
Twenty-fourth.....	383,305 00	921,975 00	567,870 00	2,325,643 00
Total assessment, 1880 .....	.....	.....	.....	.....
Net increase .....	\$48,681,540 00	\$35,497,928 00	\$50,550,784 00	\$48,327,030 00
Net increase, 1880 and 1890.....	.....	.....	.....	.....

## EXHIBIT 6 — (Concluded).

WARD.	Increase or decrease, 1889.	Increase or decrease, 1890.	Assessed valuation for 1890.	Net increase from 1880 to 1890.
First .....	\$511,725 00	\$3,608,900 00	\$84,844,538 00	\$31,788,012 00
Second .....	564,122 00	622,165 00	35,680,850 00	7,575,090 00
Third .....	371,467 00	444,773 00	39,695,570 00	5,877,650 00
Fourth .....	117,208 00	394,750 00	14,076,503 00	1,470,558 00
Fifth .....	539,503 00	377,268 00	47,620,220 00	8,670,970 00
Sixth .....	257,759 00	195,200 00	25,312,300 00	3,500,150 00
Seventh .....	422,150 00	1,948,690 00	20,175,357 00	4,244,307 00
Eighth .....	251,735 00	536,050 00	40,153,088 00	5,025,646 00
Ninth .....	552,107 00	1,546,310 00	32,521,090 00	5,598,520 00
Tenth .....	229,185 00	1,949,300 00	20,791,132 00	3,654,892 00
Eleventh .....	249,431 00	2,691,400 00	20,400,587 00	4,566,117 00
Twelfth .....	11,781,563 00	20,163,165 00	208,335,125 00	133,412,545 00
Thirteenth .....	385,123 00	1,805,950 00	13,263,229 00	3,520,879 00
Fourteenth .....	172,372 00	400,800 00	25,796,092 00	3,302,635 00
Fifteenth .....	693,175 00	1,390,050 00	59,174,880 00	7,756,020 00
Sixteenth .....	755,385 00	1,101,985 00	40,603,435 00	6,602,985 00
Seventeenth .....	289,500 00	5,745,900 00	41,022,808 00	8,319,328 00
Eighteenth .....	1,562,077 00	1,422,400 00	82,139,600 00	12,797,150 00
Nineteenth .....	2,543,540 00	4,416,170 00	225,647,570 00	87,102,605 00
Twentieth .....	723,780 00	1,483,350 00	49,587,900 00	10,996,750 00
Twenty-first .....	524,721 00	2,298,200 00	93,539,300 00	16,915,500 00
Twenty-second .....	4,341,670 00	6,979,229 00	133,512,299 00	61,525,959 00

Twenty-third.....	1,692,145 00	2,668,570 00	28,569,831 00	15,081,531 00
Twenty-fourth.....	772,041 00	2,521,141 00	15,836,703 00	6,413,018 00
Total assessment, 1890.....	.....	.....	\$1,398,290,007 00	.....
Net increase.....	\$28,759,412 00	\$66,711,716 00	.....	.....
Net increase, 1880 and 1890.....	.....	.....	.....	\$455,718,817 00



## EXHIBIT 7.

SHOWING THE ASSESSED VALUATION OF PERSONAL ESTATE, RESIDENT, NON-RESIDENT AND SHAREHOLDERS IN BANKS IN 1880 AND IN 1890, THE YEARLY INCREASE OR DECREASE (THE LATTER BEING INDICATED IN RED INK), AND THE NET INCREASE OR DECREASE SINCE 1880.

	Assessment for 1880.	Increase or decrease, 1881.	Increase or decrease, 1882.	Increase or decrease, 1883.	Increase or decrease, 1884.
Resident .....	\$1,335,027,710 00	\$511,032,000 00	\$945,092,900 00	\$148,355,900 00	\$1,394,686,700 00
Non-resident .....	1,208,972,000 00	8,575,500 00	59,950,400 00	86,043,800 00	5,496,100 00
Shareholders of banks.....	5,660,160,709 00	282,278,787 00.	88,988,460 00	161,790,967 00	709,834,500 00

## EXHIBIT 7 — (Continued).

	Increase or decrease, 1885.	Increase or decrease, 1886.	Increase or decrease, 1887.	Increase or decrease, 1888.
Resident .....	\$936,747,900 00	\$1,621,260,000 00	\$3,192,294,100 00	\$419,821,500 00
Non-resident .....	99,093,000 00	12,579,400 00	37,654,500 00	6,757,200 00
Shareholders of banks .....	550,447,100 00	173,345,100 00	382,210,700 00	174,052,500 00

EXHIBIT 7— (*Concluded*).

	Increase or decrease, 1889.	Increase or decrease, 1890.	Assessed valuation, 1890.	Net increase from 1880 to 1890.
Resident .....	\$1,809,404,500 00	\$2,314,985,900 00	\$21,743,916,000 00	\$8,393,645,000 00
Non-resident.....	12,075,400 00	176,646,600 00	1,174,004,100 00	34,967,900 00
Shareholders of banks ..	342,247,100 00	151,123,600 00	6,950,918,200 00	1,390,757,491 00

NEW YORK, *October 17, 1890.*

Present—Senators Fassett, Ahearn and McNaughton.

MICHAEL COLEMAN, recalled, further testified:

By Mr. IVINS:

Q. If in your judgment as a commissioner of taxes the assessments in the seventh ward, seventeenth ward, thirteenth, tenth and eleventh wards seemed to be higher than they ought to be, and if in your same judgment the taxes in the nineteenth, eighth and fifth wards for instance seemed to be lower than they ought to be, what power have you as a commissioner, or what power has your board as a board to consider the matter and compel what, in your judgment, is a proper assessment in each case? A. In the first case there is no doubt in my mind but what we have the right, after the books are opened the second month in January, to increase or decrease whatever we think is out of proportion with one another.

Q. How do you do that? A. There has never been any occasion for the commissioners to take such action as to go into a wholesale matter of reducing or increasing one ward or one section of the city.

Q. There never has been any such case arise? A. No; not so palpable that it would compel the commissioners to do a thing of that kind.

Q. If it were to arise, however, have you any power in the premises? A. Well, we have power to comply with the law in regard to increasing that part of the city or that section of the city up to the adjoining section, as long as we do not exceed the marketable value; but I have always been in favor of equalizing down instead of equalizing up; I have never been able to carry my point on that one question.

Q. But if one deputy or two deputies were to assess at the very top of the market and all of the other deputies were to assess fairly below the actual market, you would not have power to equalize down, as you say, so far as concerns the work of the first two deputies? A. Under the law without some complaints were made, I don't think it would be proper for us to take and revise the figures of the deputy as long as he complied with the law; we have taken, within the last four or five years, a certain section of the city that had been raised by the deputy some eight or ten years ago, and where the improvements had missed them, and where it stood in a stagnated state for years, and where the values commenced to decline and depreciate there, and recommended before the opening of the books for the deputy to reduce that along that line, and when he didn't do so, I saw that after the books were opened, there were several complaints made along that



line, and I made out a list of reductions and the commissioners confirmed my list and it was reduced several hundred pieces, but it was so markedly unjust that I had to do so.

Q. In appraising real estate for taxation tell us exactly how the value is ascertained? A. Taking the fair, honest, marketable value of the property as it stands, plot and building.

Q. How do they ascertain the fair, honest, marketable value? A. They must find that out by inquiries, by the knowledge they have of what the elements of making up the value of real estate are.

By Senator FASSETT:

Q. By recent sales in the neighborhood of similar kinds of property?

A. That is only one; there are so many things to go into in order to find out the value of real estate; location is one of the first principles, the surroundings, the lot is improved by a building suitable for the location, whether the future is going to be bright, or whether it is going to be dull, whether it is going to appreciate, what the income is at present, what it is going to be in the future, what is required to go along side of them to depreciate them or to appreciate them; all those things have got to be taken in; to tell you the truth I have never known an expert in real estate hardly that knew all about it, there are so many things about it.

Q. You never knew anybody who knew absolutely what the future was going to be as to any kind of business, did you? A. You can't tell.

By Mr. IVINS:

Q. Take a piece of property, a small tenement which is actually sold for \$31,000, the rentals of which are \$2,800, what would such a piece of property be apt to be valued for purposes of assessment? A. I can answer that in this way, there are a certain class of men, speculators in New York, that consist of a very wealthy syndicate, who buy and build houses, who fill them under a rent roll that is supposed to be honest and just, who put new shades up, new oilcloths in the halls, and who put people there from top to bottom, so that a piece of property will rent for \$2,800 for the purpose of catching somebody who will buy that property on the basis of an income; six months after that that same property, if sold for \$28,000 or \$25,000 or \$31,000, if you visit that same piece of property it might be the same, but the chances are it will not, you will find may be six or eight places vacant.

Q. Do you think they could do a thing of that kind so successfully as to fool the tax department into assessing that property at \$42,000? A. No.

Q. You would be surprised if I should call your attention to such a case? A. I should be very much obliged to you, very much indeed; there is no record in the tax office that wants to be rectified but what we want to find it out.

By Senator FASSETT:

Q. After you find the fair, honest market value of the property then is it assessed at that? A. Giving the benefit to the taxpayer in relation to what might be called actual depreciation, wear and tear and the average loss of rents, after taking out all the expense, giving him all the benefits, we tried to get right down to what you might call an eighty per cent basis on that.

Q. An eighty per cent basis on what? A. Yes.

By Senator McNAUGHTON:

Q. In the meantime, wouldn't there be a steady appreciation of the value of the land on which that building stands? A. That is according to its location altogether; the lands and the property that has been increased in the eleventh and thirteenth wards and along the line of the seventh ward were more valuable forty years ago than they are to-day, because at that time they were full of shop buildings and mechanical interests all along that line, and since that time it has all gone to the North river side of the city; and if you go along there now you will find nothing but one mass of wrecks from Grand street up as far as Fourteenth street; piers falling apart — no business.

By Mr. IVINS:

Q. This is the region where these great increases in valuations occur, is it not? A. Not along the river front; but it was parts of those wards.

By Senator McNAUGHTON:

Q. But in other parts of the city the real estate has appreciated in value?

Senator FASSETT.— The ground rents, he means?

The WITNESS.— In other parts of the city we have been gradually, ever since 1879, upon an upward movement; we went down between 1873 and 1879; there was no protection for real estate then; but between 1879 and up to the present time there has been a gradual increase throughout the city, except where it is in certain locations, and those locations are very few; of course, there has been more in some parts than there has in another.

Q. The rent received for property is not always a true test of its value? A. That is one of the tests.

Q. But it is not always a true test? A. The rents received as a basis to go in regard to the sale of property near Broadway, between Eighth and Twelfth streets; for years and years around the Stewart property, and all that section along Eighth, Ninth, Tenth and Eleventh streets, along from Fourth to Sixth avenues, where the leases were made in 1869 and 1870, upon a high tide point, a high basis, when the panic of 1873 struck us, every one, almost, along there was ruined, and you couldn't get anything at all for the improvements that the people placed upon these leased lots.

By Mr. IVINS:

Q. I want to go back to a question that was asked by Senator McNaughton a minute ago; suppose a building of a fair or indifferent character is put up on a lot, and that long after, although the building has begun to fall into decay, or possibly is returning smaller rents, the land values in the neighborhoods have increased very greatly, how would you go about assessing a piece of property of that kind where the lot, as a vacant lot, might have doubled in value, although the improvement, as an improvement, might have decreased?

A. We generally take — no matter whether it has been improved or whether it has depreciated or appreciated — we generally take, year after year, a fair sum for what might be considered a marketable value in proportion to the surrounding property; if the land depreciates or the building depreciates, if a man takes a piece of property upon Madison avenue and puts up a tenement-house there, he takes and depreciates not only the tenement-house property, but the value of the land; if the man was to take and put up a private house over in Cannon street, which ought to be put up in Madison avenue, it destroys the value of the land almost as well as the value of the improvement; all those things have got to be taken into consideration, and without a man is a thorough expert in regard to the value of real estate, it is almost impossible to answer every question without a personal examination, or knowing something about the location.

Q. When you say taken separately, you mean each case by itself?

A. Yes; each case taken by itself.

Q. You don't mean the land value and the improvement value taken separately? A. I mean taking everything; there may be the location as well as the individual piece of property.

Q. In the individual piece do you take the land value and the improvement value separately? A. We do not take anything at all separately, except upon an examination which we want to go into upon a complaint; we strike the land value.

By Senator FASSETT:

Q. That is, you mean you don't enter in your books an estimate in the separate value? A. No; if I want to sit down and talk with a man on a complaint, then we will get the area of his ground and also what the land is, and then what it cost to put up the building; of course, we would do that in a friendly way; but the assessors make no separation upon their books.

By Mr. IVINS:

Q. Then these assessments, except in cases where complaints are made by the party assessed, depend entirely upon the judgment of the deputy tax commissioner? A. Oh, yes; subject, of course, to the review made and the suggestions made by the commissioners' going over the reports.

Q. Do you make suggestions for changes on the weekly reports, in some cases suggesting a lower valuation, and in other cases suggesting a higher valuation? A. Oh, yes; it has been the custom right along, since 1887, in the fall of the year; it used to be, generally, my business, before I was a commissioner, to take each and every field book and go over one day in a week a boy's figures, and make suggestions and recommendations to him. The commissioner used to depend upon me to take and do that; of course, I have not had the proper time now, with my other things, to do that; but what little time I do have, and what reports I do go over, I generally speak to the chief deputy to take and tell the deputies what my opinion is, and where I should think certain things ought to be done.

By Senator FASSETT:

Q. Then the deputy may or may not accept your suggestion? A. Oh, yes.

Q. As a question of jurisdiction, you have not any until after the books are open, upon complaints made? A. No.

By Mr. IVINS:

Q. Now your weekly report comes to you? A. Yes.

Q. You sit down with it? A. Yes.

Q. You go over it in detail? A. Yes.

Q. In going over it in detail do you remember distinctly ever having sent for a deputy and saying, "you have assessed this piece of property too low?" A. Oh, frequently; I have, individually, frequently.

Q. Do you remember ever having said to a deputy, "you have assessed that piece of property too high?" A. I say this way, "send



for him; let me see what he has got to say about this thing; haven't you got that too low; haven't you got that too high," and things of that kind; I get along friendly with all my men, every one of them; I get along friendly with them all; I recommend what I can and advise what I can.

Q. In the long run, except in the cases where complaints are made, or except in the cases where you exercised your own right of suggestion upon receipt of the weekly statement or weekly report, the action of the deputy in fixing the assessed value is a finalty? A. Yes; that is the general question.

Q. Except in those cases? A. That is the general question; that is the question.

Q. Now if the particular deputy is not an expert and is not in all things qualified for his work, then the work is not well done, is it? A. Well, if he has no knowledge, when you say a particular deputy.

By Senator FASSETT:

Q. To put that question in another way, the way the work is done depends wholly upon the capacity of the inspector? A. Yes; of course.

By Mr. IVINS:

Q. Entirely? A. Yes; and that is the reason why we have been so conservative in our department, because from 1869, up to the present time, there have only been about eight changes in our department; we don't want to have any changes.

Q. So every assessment in New York city depends ultimately upon the expert opinion and capacity of some one individual, and that is the deputy tax commissioner, unless complaint is made, and it is revised? A. And indorsed to a certain extent by the action of the commissioners, because the commissioners can, you know; there is no deputy would stand right up and disobey the commissioners; if the commissioners would go and order him to do certain things he will do them; but they have never done so.

Q. Do you know of the commissioners, as a board, ordering the deputy tax commissioner to raise his assessment or to decrease his assessment before the books were opened on the first week in January?

A. I never knew it as a board; but I have very often—in fact, there never is a year goes by but what I go through the records, and you will find them over there where I have written "low, Coleman"; "this section high, Coleman," written in pencil; "this piece low; improved; examine again; Coleman;" you will find that.

Q. That you regard as being done in compliance with your sense of your duty as a tax commissioner? A. Yes, sir.

Q. Do you know whether either of the other tax commissioners, not acting as members of the board, but acting individually as a commissioner, as you do, does the same thing? A. I don't know about that; I couldn't say for certain about that.

Q. Has your attention ever been called to the fact that they did anything about it? A. Yes; I think that Mr. Birmingham called my attention to the fact last year that one of the commissioners spoke about a piece of property in the lower part of Broadway and said that the asking price was so much, and thought that the assessment was a little too low to what they were asking for it, and asked me my views, and I gave them to him.

Q. Did you ever hear of any other instance? A. No.

Q. Which one of the commissioners was that? A. Commissioner Feitner spoke to Mr. Birmingham.

Q. Now, in making these assessments I understood you to say that the improvements were personally inspected? A. That is supposed to be the duty and supposed to be done by the deputy tax commissioner.

Q. What instructions are given to the deputy tax commissioner in regard to the personal inspection and the character of the personal inspection of the improvements? A. The oath of office is copied by the secretary and posted up in the real estate department; I generally make it a habit previous to the opening of the books to call Mr. Bell's attention to certain sections of the city and go through the deputies, and each and every one, and talk with them personally in regard to what I expect to do; that is all; a general conversation and a matter of custom which I have always been in the habit of doing, telling them what I think was right and proper for us both to work together, in trying to give the best results.

Q. You are obliged, as commissioners, to take it for granted in view of your knowledge of the character and capacity and straightforwardness of your deputies, that all improvements have been thoroughly and well inspected by them, are you not? A. We are not satisfied with their report on that, we go further than that; we have a book, as I showed you here yesterday, where we take the weekly statements from the buildings department of every alteration of every new building in the ward of anything over \$150, or perhaps may be \$500 now, it used to be \$150; and we make a note of each and every piece, and when the deputy's reports are sent in we compare his

reports carefully with each and every ward and find out whether he has gone through the streets where these improvements are.

Q. Who compares that, the commissioners themselves or another deputy? A. That is compared by Mr. Bell and Mr. Newkirk, the application clerk and the chief deputy; they go over each and every parcel in the city of New York where the improvements take place.

Q. By that means you can certainly, you think, detect the fact that a deputy tax commissioner has not made a personal inspection of a piece of property, if it appears from the maps that there has been an improvement, but the same thing does not appear in his field book? A. We generally can catch on where there has been any neglect; but you must remember that all applications made for alterations or for buildings are not commenced, and certainly sometimes when we think that may be we have detected a deputy in neglecting a part of his duty we very often find he has been over his ward fully and these improvements that have been recorded have never been commenced.

Q. In making appraisements of vacant lots appraised lower than improved lots of equal value on the same street or in the same neighborhood? A. We tried to make an equal no matter where they are, the same street, the same avenue or in different locations; of course, it is impossible for anybody to take and look over the records without he makes a personal examination to know what is equal; one street is not paved, the other street adjoining is; one street has a walk and a sewer in it and the other not; one street might have rock may be four feet below the surface while another is four feet above it; one might be filled in by soil or ashes may be twenty years ago and not being discovered would require a man to put down a foundation wall may be twenty feet below the curve; those things can not be examined without going personally upon the ground and taking your bearings and your soundings and knowing personally about the location.

Q. Do you know Eighty-sixth street between Ninth avenue and the Boulevard? A. It is an improving location now, very improving.

Q. That block now is practically all built up, is it not? A. Built up by Prague.

Q. Except a few lots on the south side? A. Yes, sir.

Q. About 100 feet front? A. Yes, sir; he brought that property from D. Willis James.

Q. Now let us take that as an illustration; there are some houses on the south side about the middle of that block and right alongside of those houses there are four or five unoccupied lots? A. Yes, sir.

Q. Now will you appraise the land value of the unoccupied lot upon



the same basis as the appraisement of the land value of the occupied lot adjoining? A. Well, hardly; I have always directed the deputies — my idea has been that unimproved property that don't stand in the way of progress and which is held by people who can not or who are not able to improve, unimproved property that has no way by which an improvement can be made, by connection with a sewer or in the way of pavement or flagging, and which requires no protection on the part of the city, should not be placed upon the same high basis that improved property should be that has all these improvements and protection; there ought to be a little difference in my judgment.

Q. Then as a matter of fact there is a difference in the appraisement? A. Well, there ought to be.

Q. And vacant lots standing alongside of lots on which there are improvements are assessed lower so far as the land value is concerned, than those on which the improvements are? A. I think they are as a general thing.

Q. To about what extent — a difference of five per cent, ten per cent or twenty per cent or what do you suppose the difference is? A. The chances are may be in some cases fifteen per cent.

By Senator McNAUGHTON:

Q. You said you made a distinction in favor of property held by parties who are unable to improve it as compared with property held by parties who are able to improve it; why do you do that? A. I say no; if unimproved property stands in the way of progress and is held by parties who are able to improve it, that is one way; if in other locations where unimproved property has rock upon it and has no sewers, no connections, no pavements or no flagging and no street openings hardly for that matter, and requires no protection, certainly we can't put that upon the grade of property downtown that has all the elements of value.

Q. That is not my question; do you appraise property that is held by parties who are unable to improve it on a lower basis? A. Sometimes it is done.

Q. Why do you favor that class of property? A. We don't favor it as a special thing, but I take it that unimproved property should not be assessed as high as improved property.

Q. That may be very true; but I couldn't exactly see why you should favor property held by people who are unable to improve it? A. Well, no; there is sometimes property in litigation, property held by miners; the executors having no right to improve it and where the will might say that they say that they can not borrow; I have



known places in Broadway where the lease was made for twenty-one years and the property held by the corporation which has to pay the tax, where the ground rent was less than the taxes paid upon the property.

By Senator FASSETT:

Q. Do you make a distinction as for property held for speculation and kept vacant, and the property that is vacant because there is no demand at the time for its improvement, is that what you mean? A. Well, we don't make any reason; my general directions are to deputies in talking to them, and it has always been the custom of the department not to take and appraise vacant property on the same high basis as improved property, because it don't require the same protection under the law and don't cost us so much.

Q. Do you remember what the practice of the board was, for instance, with such pieces of land as that which was held by the Boner estate for a long time on Fifth avenue? A. That was always assessed perhaps on a basis—I don't think there was any difference hardly—although he held it for a certain price and held it there for years and years and no one would ever go anywhere near that price until a millionaire, who didn't consider \$100,000 anything like C. P. Huntingdon did, that wanted that particular location, and he did give him his price; at the same time it was not a proper value; nobody else could have done it; there are not ten men in the city of New York to-day who would have taken it off Huntingdon's hands after he had made the contract at may be \$50,000 or \$75,000 of a loss; but there was a man worth may be \$20,000,000 to \$25,000,000 who wanted that particular location.

Q. Do you remember what the practice was in regard to assessing that particular piece of property? It has been always considered to be assessed on a fair basis in proportion to the surrounding country.

Q. You don't remember what it has been assessed at? A. Yes; I can tell you; I should judge about \$400,000.

Q. You wouldn't call that an assessment at eighty per cent of its value? A. No.

Q. Nor sixty per cent of its value? A. Yes, sir; I would put it up in ordinary time.

Q. It is not fifty per cent for what he got for it? A. No; and he held it there for fifteen years, waiting for his price; it would break an ordinary man to do such a thing; don't take that as an ordinary value or an ordinary piece of property.

By Mr. IVINS:

Q. Then he was assisted in holding on speculatively, and waiting for his price by the action of the tax department in making those assessments? A. Not by any means.

Q. It did result in an assistance to him? A. Not by any means; it didn't make a particle of difference to Mr. Boner whether we assessed him \$5,000 or \$3,000; it would not change his ideas of the value at all; he had no idea of selling the property, and didn't want to sell it, and for the purpose of keeping all speculators and real estate men away from him, he put a price on it that he didn't think they would ever reach; but he paid \$10,000 or \$12,000 a year to the city for holding it.

By Senator FASSETT:

Q. Have you any data showing the value of real estate that by law is exempt from taxation; yes, sir; everything.

Mr. IVINS.—That can all be put in from the record here.

The WITNESS.—That is a very nice and interesting subject. You people ought to study it.

Mr. IVINS.—We will study it with your help now in a few minutes.

Q. That data is printed? A. For every piece of property; yes; it is in the report.

Mr. IVINS.—It is right here in the report of the tax commissioners.

The WITNESS.—I think each of you ought to have a report of that kind, because every piece of property in New York is in that report.

By Mr. IVINS:

Q. Which one of these reports is that? A. That of 1890.

Q. As a matter of fact, if that property had been built upon, and occupied, it would have been assessed at a higher rate, wouldn't it? A. Oh, a great deal higher, that is providing the improvements would add anything to the value of the land instead of depreciating it; if they had put up a lot of tenement-houses there, which they had a right to do, we would have had to depreciate it.

By Senator FASSETT:

Q. What did this man sell at — he sold half of it for how much? A. I think McRae had it parceled out so that Astor took one part, Huntingdon took the other, and he got at the rate of nearly a million of dollars; that was the price he put on it fifteen years back; now consider what this man did in 1869 and 1870; he said this was worth nearly a million of dollars; he has been waiting twenty years to buy

it at that price, and in the meantime he has paid the city of New York nearly \$200,000 in taxes.

By Mr. IVINS:

Q. But if he had built upon that property, dwellings exactly of the kind and character of the other buildings in the neighborhood, he would have paid more than that on that property, wouldn't he? A. Yes, a great deal more; certainly.

Q. Then the city would have been the gainer by his having built in the first instance, in having just so many more buildings, and in the second instance in having just so much more money in its coffers? A. Yes; but that is under his control; we are not obliged to do that.

By Senator FASSETT:

Q. If it had been assessed at that rate, he wouldn't have been able to hold it, would he? A. We are not putting on the screws that way on the good people of New York.

By Mr. IVINS:

Q. You put the screws onto the people who have built houses, and onto the rent-payer who covers the taxes in his rent, don't you? A. We tried to assess him in a fair way, and there is a difference in opinion between me and the deputy in some of those things? A. Yes, sir; that is all.

By Senator FASSETT:

Q. Is not this the unfortunate effect of our system of taxation that it results in a premium upon unimprovement? A. Not at all.

Q. And a burden upon improving real estate? A. No.

Q. Is not that the effect of it all over the State as well as in New York city? A. It is not as far as New York is concerned; there are very few buildings in New York reasonable under the present system of transit, that we can get at, but what we assess in a fair equitable way; but where we can't reach them, where we can't get at them, and where you people won't give us facilities to get at them—

Q. Don't say "you people" are refusing these facilities, because that may lead to a decided difference of opinion? A. I don't care how we get it.

Q. The Legislature did pretty nearly its share in that respect; if Mr. Boner had had a million dollars worth of property in the shape of improvements there, he would have had to pay upon a higher assessment? A. Yes, sir.

Q. So it seems to me that wherever property is improved, that

instant an assessor sees it, and as long as it is unimproved he does not see it; in other words there is always a premium under our present system of taxation on keeping property unimproved? A. We would rather have them improve it.

Q. You make them pay a penalty for improvements? A. We are not going to be the instruments in anybody's hands for the sake of driving people what they are not able to do.

Q. Are not you the instruments in the hands of a system that makes people pay a penalty for improvement? A. No; the system is all right; we are not putting things in that way; we have had applications time and time again from people who are downtown owners of large pieces of property, where some poor German or poor Irishman had bought a corner property there, and where they wanted to buy him out and where they offered him really more than what the property was worth; but at the same time he had been there and he had been successful there, he didn't know what to do with the money providing they sold out, and they would try to force us in the tax office to take and put that property upon a basis at which they were willing to pay for it, but which was not an honest value, for the purpose of crowding that man out; we have refused in every case to do it; it is the same way nearly all over New York.

By Mr. IVINS:

Q. Take a piece of property that is already occupied by a building, but which might be occupied by a very much better building, which because of the character of the neighborhood if there were a better building on it, would yield a very much higher return, and as an illustration let me ask you if you know the New York Hotel—do you know the old New York Hotel? A. Yes; Mat Morgan owns that.

Q. How large a piece of property is that on which the New York Hotel stands? A. It runs from Mercer street to Broadway, and from Waverly place to Washington place; it is a short block there between Mercer street and Broadway.

Q. Have you ever heard that it has been proposed from time to time to tear down that old New York Hotel and put up a new and large and modern hotel on the site? A. Oh, yes; the plans were made for the New York Hotel in 1886.

Q. The plans were made? A. Yes, and then the Morgan people got into trouble down in Wall street upon the failure of the Denver and Rio Grande road, and that stopped it right away.

Q. Has your attention ever been called to the fact that even after the plans were made for the building of a new hotel there, the fear



of assessment was such as to deter the building of the hotel? A. Who gave you that story?

Q. I ask you if you ever heard it? A. I know it is not so.

Q. Would you be surprised to learn that if a new hotel were put up there at a cost of one or two or three millions of dollars including interest and the tax rate which would be incident to the new improvement it would be such as to make a profitable return impossible? A. I have never figured on what the income of the property would be or what the cost of the hotel would be; but I know this, that when the plans were made, and right previous to the death of Trenor W. Parks, the line of the tunnel under the Hudson river drawing straight to Broadway would take in a part of the property upon the rear of the New York Hotel; I was asked to be the appraiser and I refused; and just as soon as they found that they were going to make some progress with that tunnel they stopped all proceedings in relation to any improvement in that location.

By Senator McNAUGHTON:

Q. It was due to that, and not to the statement made by Mr. Ivins? A. Yes; you know it wouldn't do until they had drawn out their lines and found out where the opening was going to come.

By Mr. IVINS:

Q. Have you ever heard in any particular case that property has not been improved, that is, an old building torn down and a new building put up, in view of the fact that the net return would be smaller after the new improvements were made than it is with the old building, as incident to taxation? A. Oh, lots of cases.

Q. You have heard lots of cases? A. Lots of cases in regard to where the income in proportion to the improvement, to the cost of improvement was much smaller than what it was before; but at the same time we have got nothing to consider about the income; that is not one of the elements.

Q. I know you have not and I know that is none of your function at all; but we are now examining you as an expert on this general question of the taxation of land values and improvement values, and we want to get your opinion, for instance, in regard to a certain thing that has been urged before the Legislature time and time again during the last few years, and that is a single tax on land.

Q. You say that you have heard of ever so many cases? A. Oh, lots of cases.

Q. Now, just tell us one, two, three, four, five, six or a dozen of those cases? A. I couldn't enumerate them because these things are

continually in my mind in regard to the good will of property being destroyed by the old building being taken down and where the cost of the new improvements would not compensate the parties at all; I have known lots of cases of that kind in my experience.

Q. Have you known that the obligation to pay a very much increased gross tax, which falls as part of the burthen on your investment, was one of the deterrents? A. Oh, no; that is only imagination.

By Senator FASSETT:

Q. High taxes don't affect the value of property? A. Oh, no; people don't stop for improvements in New York to consider about the tax office at all.

By Mr. IVINS:

Q. Now, let us take the case of the block between Fifth and Sixth avenues and One Hundred and Twenty-ninth and One Hundred and Thirtieth streets; are you familiar with that block? A. One Hundred and Twenty-ninth and One Hundred and Thirtieth streets, yes; that is on the south side; they are in the Philadelphia style; that is the Astor property; brick buildings there with an alley-way between each one.

Q. Now, let us see; on the south side of that street running for 100 feet or so from Fifth avenue, on the south side of the block, which is the north side of One Hundred and Twenty-ninth street, there are no buildings; are there? A. No; not there; on the south side of One Hundred and Thirtieth street there are.

Q. Then, there come, on this same north side of One Hundred and Twenty-ninth street, eight or ten houses built on the Philadelphia plan; is that so? A. Yes; brick buildings.

Q. And then from those houses, running down to the corner of Sixth avenue it is vacant again; isn't it? A. Yes; and on the north side of One Hundred and Thirtieth street it is all brown stone houses.

Q. On the north side of One Hundred and Thirtieth street it is brown stone houses; on the Sixth avenue end? A. Yes.

Q. And in the middle of the block there are double houses with alley-ways between? A. Yes; that man filled them in in 1869; a man by the name of Hayes built them.

Q. And that entire block belongs to one of the Astor estates; doesn't it to-day? A. Yes, sir.

Q. Will your books show what the estimated value of the land for purposes of assessment is in the cases where the lots are not built on, and in the cases where the lots are built on? A. They will show the assessed value of both.

Q. So, that when we have them here in a minute we will be able to get the exact details of that particular assessment; will we? A. Oh, yes; each and every piece.

By Senator FASSETT:

Q. Does Mr. Coleman mean that it will show the assessed value of each or the assessed value of both? A. The assessed value of the land and building together, and the assessed value of the vacant lot.

Q. But not of the land on which the building stands? A. Oh, no.

By Mr. IVINS:

Q. Is land which is not laid out in building lots appraised on so high a basis as land of equal value which is laid out in building lots? A. That is altogether owing to the location.

Q. What should the location have to do with that? A. It has a great deal to do with it; there is a market value to both; but just as soon as you commence to take what you might call a fair ordinary value, and just as soon as you commence to take and have a low market or a poor market, or a depreciating market, the extremities will feel the effect of it first, and it will take some while before it gets to the center, and where those extreme outlying lands are they will feel the first effects of depreciation; we don't propose to put them upon the same basis as property nearer the center.

Q. Suppose we take the north side of East One Hundred and Forty-third street? A. Between what avenues?

Q. Well, it does not make any difference any way; I am going to give a hypothetical case? A. One Hundred and Forty-third street is in the annexed district, part of it.

Q. I say East One Hundred and Forty-third street; that is in the next district? A. Yes.

Q. Suppose you take a stretch along the north side of East One Hundred and Forty-third street, and suppose there be four lots laid out distinctly as building lots, each with a parcel number on your books, and suppose adjoining them there be four lots not laid out in building lots, but standing as a single plot and having one plot number in your books, will the assessed valuation of that single plot, including four lots, be in the aggregate as high as the assessed valuation of the other four lots? A. If they both lie upon a level.

Senator FASSETT.—Other things being equal?

By Mr. IVINS:

Q. Everything else being equal? A. Everything else being equal; they should be if they are not.

Q. Is it the practice that they are? A. Right in the midst of improvements of lots laid in lots, or lots laid out in plots, a small parcel of that kind, it is always supposed that the deputies there will put them upon the same basis.

Q. Now, suppose that there were a whole block of which four lots had been laid out and each of which four lots had parcel numbers in your books; and all of the rest of the block was in one parcel, and all of the things were equal as to valuation, so that one twenty-five by 100 was equal to another twenty-five by 100 in that block, would the aggregate assessed valuation of the rest of the block be made on the same basis, the same ratio with the assessed valuations of the four lots? A. You say "all things being equal," and when you say that you cover such a thing that it is almost impossible to take and explain to you or anybody else; they are not all things equal when you take four separate streets of New York anywhere, no matter what location you take.

Q. I am talking about the basis; the ratio? A. The ratio should be, if the lots fronting upon the four different sides are assessed in one parcel below what the same aggregate number of lots are assessed opposite, then we are wrong, providing that you can show such a case in our office.

Q. The point that I want to get at is this; I have no specific case in mind? A. I wish you could, providing such a thing exists.

Q. This is a hypothetical question; it is simply for the purpose of getting at the fact whether a practice prevails in your office of assessing lots which are laid off as building lots at a higher rate than unimproved lots which are not so parceled, but which lie in bulk? A. No, it is not a practice; where there are building lots and parcels siding together it is not a practice, but where there are farm numbers that is another matter; there are acres upon acres without a street passing through, with no local improvements, away from all schools and away from all churches, where persons are obliged to keep their horse and wagon, there I claim that we have no right; it wouldn't be honest for us, and I would refuse to do it even if I was ordered to do it.

By Senator FASSETT:

Q. Where streets have not been laid out and where maps have not been filed for opening the streets? A. And where maps have not been filed for opening the streets; there I claim that we shouldn't assess them upon as high a basis as we do the property that has all the improvements and all the surroundings.



By Senator McNAUGHTON:

Q. Property of that kind is all in the upper part of the city? A. Of course, New York is so laid out by nature that it is obliged to be up there; if it was down here we would be in a bad state of affairs.

Q. In what wards? A. The twenty-third and twenty-fourth and part of the twelfth ward.

By Mr. IVINS:

Q. What is the character of the property lying along the line of One Hundred and Forty-third street in the annexed district? A. It is according to the location; along Willis avenue there and Third avenue there, it is very good and improving very rapidly; the line of the suburban rapid transit there is going to open up that section of the city very rapidly; there is no doubt but that property will come into market.

Q. How is it about One Hundred and Thirty-eighth street? A. One Hundred and Thirty-eighth street is a better street; it runs across.

Q. What is the character of the country between One Hundred and Thirty-eighth street and One Hundred and Forty-third street? A. It is improving along there; all that section is improving.

Q. Is there any reason why a single lot on East One Hundred and Forty-third street or a single lot on the south side of One Hundred and Thirty-eighth street should be appraised much higher than plots of several lots or possibly a whole acre lying between those two streets? A. Well, you might say that perhaps taking the marketable value in ordinary times, an acre wouldn't sell so rapidly, as high as what one lot would in that section, because the average man that goes up to that section of the city only wants to buy one or two lots; it is inhabited by a class of people who are driven out of New York and who are seeking for homes up there for dwellings and for investment purposes, and an acre would not sell so readily, thrown on the market without due advertisement, as a lot would.

Q. If a man buys one of those lots and builds a home on it, then he is taxed more for the particular lot on which he has built than if he owned a vacant acre lot in the neighborhood? A. No; we don't say that.

Q. Is not that the result of it? A. No; we say the marketable value; be sure now to follow the lines; I say the marketable value.

Q. I am not talking about the market value; I am talking about the result of this system on the man who pays the tax? A. I am talking about the marketable value.

Q. How do you get at the marketable value of a plot of three or

four acres between One Hundred and Thirty-eight and One Hundred and Forty-third street? A. What it would sell for.

By Senator FASSETT:

Q. Do you mean if put up lot by lot?

By Mr. IVINS:

Q. If it were put up lot by lot, as long as these lines are imaginary, what difference would it make? A. That would be all depending upon whether the average could go in there and buy, but if there were no sewers, no pavements, no manner of getting at the property, or no manner in which it could be improved at once so as to yield an income, then the chances are that speculators would be apt to buy them; if all the improvements were there so that the average man could go in and buy one or two lots and improve them, they would sell for more in lots.

Senator FASSETT.—Mr. Ivins, this seems to be like an inquiry into the practicability of placing all taxation on land values.

Mr. IVINS.—No; it is not. It is an inquiry into this, it is an inquiry into the correctness and accuracy of making assessments in this city. It is an inquiry into the question as to whether or not unimproved real estate of equal value with improved real estate should be assessed at a less rate, and whether that is a proper assessment under the existing law. It is a question whether because imaginary lines have been laid down and divided off into lots of twenty-five by 100 each, a different rule of assessment should prevail as compared with the four adjoining lots on which imaginary lines have not been drawn.

The WITNESS.—Well, you must show us those cases before you state them; show us where that was done in our office.

Q. Will you send for the books which will bring out One Hundred and Thirty-eighth street to One Hundred and Forty-third street in the annexed district? A. Yes, sir.

Q. Now take this block, 614, between Fifth and Lennox avenues and between One Hundred and Twenty-ninth and One Hundred and Thirtieth streets, as shown on page 41 of record of assessments, twelfth ward, volume 3, 1890? A. Those buildings were built by the Astors; they are three-story brick buildings upon the Philadelphia plan; the lots are twenty-five by ninety-nine, but the buildings only cover twenty feet of the front, and fifty feet deep; they are built for one family each.

Q. Where is the record of those houses on the north side of One Hundred and Twenty-ninth street in the same block? A. Here [pointing to page 40] it is the same block, 614.

Q. Now, will you point the lots which are built on and the vacant lots? A. These lots from twenty-three down to thirty-two are improved while the unimproved run from between five and nineteen.

Q. Which is nearest to Fifth avenue? A. Here; those are improved.

Q. Is not there some unimproved nearer Fifth avenue? A. No; all these are unimproved; but they front upon the avenue.

Q. They front upon Fifth avenue? A. They front upon Fifth avenue and the street both; you can front them either way you please, provided you own them.

Q. From No. 23 to No. 32, inclusive, are improved? A. Yes, sir.

Q. No. 25 is assessed at \$8,000? A. Yes, sir.

Q. Is that the value of that property? A. It is worth more than that.

Q. How much more than that is it worth? A. That is owing to who would buy it, and whether they would buy it for an investment or buy it for a residence.

By Senator McNAUGHTON:

Q. What is the fair market value? A. The fair market value of that property, the chances are, would be \$11,000.

By Mr. IVINS:

Q. Suppose I told you I had paid Mr. Astor \$1,200 a year for that house, what would the value of that property be on a basis of \$1,200 a year rental? A. It would be a higher rate than my rate would be.

Q. Wouldn't it be very considerable higher than that? A. Yes; that is, providing you are picking out a house that is subject to depreciate very rapidly, by picking out one right alongside of a vacant piece of property where a big tenement might come up, and may be destroy may be thirty or forty per cent of its value.

By Senator McNAUGHTON:

Q. Why not make the assessment then, when the property is depreciated in price? A. We will do it.

Q. But you have done it already? A. But, at the same time, we are making what we consider an honest assessment now.

By Mr. IVINS:

Q. I am talking about something that I know about; I lived in that house for three years and paid Mr. Astor the rent? A. That is all right.

Q. Mr. Astor owns this adjoining property; doesn't he? A. Yes.

Q. Is it likely that Mr. Astor is going to put up a tenement-house which will depreciate the value of his other property? A. No.

Q. Then why should you take an apparent possibility, which is not at all a likelihood, into consideration in fixing the assessment of that property? A. Only because you are like all other people in New York; you know an isolated case, and I know a hundred thousand; you don't know anything about New York; you have one piece that you know something about; I will take you to 50,000 other pieces in New York, where you are perfectly blind, and tell you something that you don't know anything at all about.

Q. That is what I want you to do? A. I can do that very easily.

Q. That is exactly what I want you to do? A. We have had tax commissioners, just like you, come in there, that knew three or four houses in New York, and they looked at those three or four houses, and they thought New York city consisted of what they knew.

Q. Here is a block which has on it thirteen buildings? A. Yes.

Q. Those buildings are assessed; five of them at \$8,000? A. Yes.

Q. And the other eight at \$7,000 each? A. Yes.

Q. Could you buy any one of those buildings in the market to-day for \$15,000? A. No; nor you couldn't for \$20,000, because Mr. Astor doesn't sell property, and you know that.

Q. Assuming that Mr. Astor did sell property, assuming that that property were put to-day under the hammer in a partition suit on the death of Mr. Astor, what would that property bring under the hammer to-day? A. The chances are it would bring \$12,000.

Q. I see that you have assessed the vacant lot in the center of the block lying to the west of No. 25 at \$3,000? A. Yes, sir.

Q. Assuming that the lot which is built on No. 25 or No. 23 or No. 19 is of the same value, that would be assessing the improvement at only \$5,000 in each of those cases? A. I think so; yes, sir.

Q. Could either of those houses be put up for \$5,000? A. No.

Q. Could either of those houses be put up for twice \$5,000? A. Oh, yes.

Q. What could they be put up for? A. I would have to take and look into the interior to find that out; I don't know the skeleton of every house in New York, but I know a good many of them.

By Senator FASSETT:

Q. You know a good many skeletons? A. Yes, sir.

By Mr. IVINS:

Q. Now, in this particular case is the assessed value of the land as high on those lots where the buildings have not yet been put up as it is on those lots where the buildings have been put up? A. Very near; there is very little difference there.



Q. In this particular case? A. There is very little difference, indeed.

Q. You said you knew of hundreds of thousands of other cases of this kind; will you tell us some of them? A. No; it would take too long a head; I couldn't go into it; I am so tired of the matter of taxation after twenty years that I talk of everything else except that, only when I am obliged to talk about it.

By Senator FASSETT:

Q. Is this a fair sample of about the way values are fixed for the purposes of taxation? A. No; because that is a very improving neighborhood right there, and we can't catch them as fast as it improves; we might take and increase them at \$1,000 every year, and still it is running away from us there.

Q. This is this year's assessment? A. I know it is; the chances are next year may be that would be \$9,000, because it lies right there north of the park, and the reason why it was not raised last year was this, that there was a probability of the fair coming here and there was a chance that some parts of this land north of the park would be taken for a fair; my ideas of the fair were different from others; I claimed it would destroy all the surroundings provided it went a good location; other people thought it would increase it; I thought the improvements that would go outside of the fair, such as booths, wooden buildings, etc., would destroy all those things, and my orders were to deputies to be careful about that property north of the park where they thought of taking the fair.

Q. Your idea was that it wouldn't add to the value of the property; A. That it wouldn't add to the value of the property; that kind of property; no.

Q. On your own figures this property out there is assessed only about sixty-six per cent? A. At the present time it is assessed about sixty-six per cent on what I suppose that property would sell for at the present time.

Q. That is under a forced sale? A. No; I don't say under a forced sale; I say an ordinary value in the market after due advertisement.

Q. I understood you to say, in answer to Mr. Ivin's question, that under the hammer it would bring \$12,000? A. That is after being advertised properly; that is not a forced sale by any means.

Q. You take a number of sales under the hammer down there, and I will guarantee that between 1882 and 1884, fifty per cent of them were forced sales? A. They were not forced; they were withdrawn.

By Mr. IVINS:

Q. Now, you just said that Mr. Astor never sold? A. Once in a while he sells; yes.

Q. But the rule is that he does not sell? A. Well, hardly ever; he has sold, of course.

Q. Isn't it almost a saying in this community that the Astor's buy and never sell? A. They are not looked upon as people who dispose of real estate after they once get possession of it. ✓

Q. That being the case, how do you get at the market value of any of their property for purposes of assessment? A. By taking the marketable value of the property surrounding it.

Q. Have you the power to exact from them a statement of their rent rolls? A. No.

Q. You have not? A. No.

Q. Don't you think, as tax commissioners, being placed in the position that you are, with people who buy and never sell, if you are going to levy a tax properly and fully; you ought to be vested with power to learn what the return and revenue of that property is? A. No, sir; it is none of our business.

By Senator FASSETT:

Q. Wouldn't the income of any property, for an average of three or four years, be a pretty good basis of appraisement for the purposes of taxation? A. It is only one of the elements.

Q. Is not it one of the very best elements? A. That is according to the location altogether.

Q. Don't you generally try to tax on the theory that railroads charge freight rates, about what the traffic will bear? A. No, sir; I can show you property in the fifth ward —

Q. I thought that was the reason you gave? A. I can show you property in the fifth ward, in the dry-goods district, where the leases were made in 1871, for twenty-one years, on a basis of \$15,000 a year, and I can show you adjoining property in the fifth ward, upon the same streets, same sized buildings, where the leases expired in 1876, and where they were leased for twenty-one years at one-half; now, what has the rent to do with it?

Q. That is an exceptional case, isn't it? A. No; I can give you thousands of them.

Q. Is not that an exceptional case? A. No.

Q. Is that so little exceptional that you could state that as a rule? A. I can state it this way, that the Sailors' Snug Harbor and Columbia College leases, and all leases of that kind, that take in thousands and thousands of lots, if the leases expire in dull times, the benefit goes to the tenants, and if they expire in high times, the benefits go to the corporations.

Q. Those are exceptional cases; they only form a small percentage of the entire value of property in New York city? A. New York is a great city, but it is small in area.

By Mr. IVINS:

Q. You know the property lying west of Seventh avenue, and from Forty-third to Forty-fifth streets, don't you? A. That is Astor property.

Q. That is Astor property too? A. Yes.

Q. Do you know the property in the middle of the block on the north side of Thirty-fourth street? A. Between what avenues; between Fifth and Sixth avenues?

Q. That is Astor property too, isn't it? A. Not between Fifth and Sixth avenues; between Madison and Fifth it is, on the south side; there are a couple of houses there that belong to the Astors, but they are not between Fifth and Sixth.

Q. Did the Astors have some property on the north side of Thirty-third street? A. Between Madison and Fifth; they did.

Q. Between Fifth and Sixth? A. No; they don't go between Fifth and Sixth; they do on the north side of Thirty-third street, between Fifth and Broadway.

Q. Those are the houses that have the curious semi-circular piazzas or steps? A. Yes; I know them.

Q. Now the Astors have some property corner of Madison avenue and Thirty-fourth street, and running up Madison avenue, do they not? A. That is the Chandler property, and the Astors; yes.

Q. Will you send for the book that has got that property; all of those books? A. The twenty-first ward; yes.

Q. Now will you give the names of four or five of the other largest real estate owners in New York city? A. Well, the Rhinelanders and the Goelets, and the Remsens and Wendells.

Q. Are there some others? A. Well, no; not without you strike into the Trinity and Dutch Reform and Sailors' Snug Harbor.

Q. The Trinity church? A. Yes, sir.

Q. And the Dutch Reform? A. Yes, sir.

Q. What is the name of the corporation? A. That is the property around there — St. Pauls.

Q. Trinity church is one of the largest owners of real estate in the city, isn't it? A. One of the largest in three or four sections you know, the fifth and eighth wards.

Q. Now, to go back to the question of this Astor property, have you any means of discovering, even approximately, the rental value of

property such as that on the north side of Thirty-third street, between Fifth and Sixth avenues? A. You could make inquiries if you wished; the deputy can.

Q. The deputy can make inquiries? A. Oh, yes.

Q. Inasmuch as that property never comes into the market, is not the rental value the best means of determining the assessable value of property? A. It is one of the means.

Q. Is it not the best means? A. No; it is according to the occupant.

By Senator FASSETT:

Q. What is better? A. It is according to who is the occupant.

Q. Tell us a better basis of determining the assessable value of the property than the rental value? A. I can tell you why it shouldn't be a guide at all, if you were going to take and have a gambling house there, that is one thing.

By Mr. IVINS:

Q. Is it likely that all of Astor's property would be occupied by gambling houses? A. No.

Q. Is not that a most isolated case? A. The rental value on Thirty-third street, it would be nonsense to take that; there are people there who have been there for years, whose families have grown up there, whose businesses are right there and who don't want to move away from that location, and to others it is way downtown and they wouldn't go there at all or pay half the rent.

Q. Is Mr. Astor a philanthropist? A. No.

Q. Or does he, as far as you know, exact fair rents for his property? A. I suppose he tries to get fair rents for his property.

Q. In exacting fair rents for his property does he take into consideration, so far as you know, the people who have been brought up in each house? A. No; I don't know as he does; I am only taking a fair estimate.

Q. You know him as a business man, don't you? A. I don't know him and I don't want to know real estate owners; I know enough of them already.

Q. There is no single way of determining the assessed value of property that is better than to take the rental value, is there? A. It is one of the means.

Q. Is there any other means better than that? A. It is one of the means.

By Senator FASSETT:

Q. Just suggest some better basis now than the rental value? A. I will give you one; take Washington Place, where Mr. Vanderbilt



lived for years and where he died, people who were surrounding Mr. Vanderbilt and wanted to live near him would pay high rentals there, and just as soon as he died the property lay there vacant and began depreciating and has continued so for years.

Q. During the time they paid that rental that was one of the elements for an assessment, wasn't it? A. It would be one of the elements, and then there is the location.

Q. Location is one element? A. Yes, sir.

Q. Now, name some one better element as a basis of appraisement than the rental value? A. That is only one of the elements.

Q. Can you mention one better way? A. The location is a better one.

By Mr. IVINS:

Q. What does the location have to do with it if the property is never brought into the market? A. I don't care whether it is brought into the market or not, I am not going to look after that, I am going to let Mr. Astor look after his own property.

Q. Do you want to go on record as saying that the location of property is a better basis than the rental value for determining the assessable value of property? A. The location is the only basis in estimating the marketable value.

Q. Whether it is improved or unimproved or whether it is used for a gambling house or not? A. I don't care anything about that, the location is what controls the market value, and that takes in everything.

Q. Are your deputies, who are the assessors, instructed to make inquiries as to the rental value of properties such as that particular property of Mr. Astor's that we have taken on Thirty-third street? A. They are not instructed directly to make that inquiry; but they are instructed to make all inquiries which bring to their notice all the information that is necessary for them to put on an honest, fair valuation for assessment purposes.

Q. We have seen in One Hundred and Twenty-ninth street that the property is assessed for about half of its actual value in your judgment? A. No, sir; I don't say that; it was assessed for \$8,000 and it might sell for \$12,000.

Q. Would you be surprised to find that taking the rental values of the property adjoining Thirty-third street, it is assessed very much below the market value as estimated on the rentals? A. It might be so; I am not surprised at anything in this world; so many things take place every day that I am not surprised at anything.

By Senator FASSETT.— That is hardly a fair position in answering a question.

The WITNESS.— I say I am not surprised at anything; I am not surprised at the assessments or at anything you might show up in our office, only if there is anything wrong I want to hear it.

Q. You wouldn't be surprised at anything wrong being shown up in your office? A. Oh, it is impossible for me to look over 200,000 items; but if there is anything wrong I want to know it.

By Mr. IVINS:

Q. All this committee wants is to help you in that regard? A. I am much obliged; if there is anything wrong I want to know it.

By Senator FASSETT:

Q. Do you think that that assessment on the One Hundred and Twenty-ninth street property is in conformity with the law? A. I do, nearer in conformity with the law than property in any other county in the State of New York as far as that is concerned.

Q. You say that is assessed more in conformity with the law than property in any county in the State of New York? A. Yes; I claim that under the ordinary value that we are obliged to take and put upon the property.

By Senator McNAUGHTON:

Q. Give us the basis of that statement? A. I claim that the property throughout the State of New York, upon the basis of what property would sell for, taking \$12,000 as the market value, \$8,000 as the assessable value, taking that as a criterion, all throughout the city of New York, that there is no other county that is as high; I am talking now about every section; the farm lands you might talk about; but they are only twelve and one-half per cent of the entire State; you could be putting those things up every year but I mean taking the villages and towns throughout the State.

Q. What is the basis of that statement which you make? A. The basis is that we are higher assessed in proportion to the marketable value.

Q. What investigation have you made to verify that statement? A. We are making investigations all the time.

Q. When were you in the county of Monroe? A. I was not in the county of Monroe.

Q. Were you ever in the county of Monroe? A. No; I don't think I ever was.

Q. Were you ever in the county of Orleans? A. No.

Q. Were you ever in the county of Erie? A. Yes; I have been in the county of Erie.

Q. When? A. Several years ago.

Q. You have not been there for ten years? A. No.

Q. Were you ever in the county of Cattaraugus? A. I don't know.

Q. Then from personal inspection you don't know whether your statement is true or not? A. It is not necessary from personal inspection.

Q. Answer my question? A. No.

Q. You don't know from personal knowledge? A. No.

Q. Do you know the value of property in the city of Rochester as shown by the assessment-roll? A. I only know from what I have heard; I have never examined it personally.

Q. You never examined the assessment-roll? A. No.

Q. You have never seen the assessment-roll? A. No.

Q. Have you ever seen the assessment-roll of Cattaraugus county?  
A. No.

Q. Do you know anything about the rule that guides assessors in the city of Rochester and county of Monroe in assessing property?  
A. I suppose—

Q. It is not what you suppose—do you know? A. I don't know of my own knowledge.

Q. These statements of yours are under oath? A. Yes; I know they are.

Q. It is not for the purpose of depressing the value of property in New York or of lifting it; it is for the purpose of getting at the mode of assessing property in this city compared with other cities; your statement was voluntary as to country property? A. Yes.

Q. Is not it the fact that as to the mode and manner of assessing property in the fifty-eight counties of the State, you absolutely of your own knowledge, know nothing? A. Oh, don't say that; I know a great deal; I will tell you why I know it; the different corporations in the city of New York including the Mutual, the Equitable, the Manhattan and the New York, take all those I have gone over, and several years ago we employed two gentlemen to visit the different counties throughout the State, and to get sworn statements from the county clerks in the different counties of the assessed values and the market values, and the property that was sold and the property that was mortgaged, and we found in almost every case, and we have had from fifteen to twenty-five in each county, we have found that in no case did they go over sixty-five per cent, and in some cases it was as low as twenty-three per cent.

Q. How many years ago is that? A. Four years ago.

Q. Have you that statement? A. The corporation counsel has got it.

Q. Will you produce it? A. If he has got a copy of it; Willard Brown and Burton Harrison, those were the two men.

Q. At whose request was that made? A. It was done at the request of Corporation Counsel Beekman, and they were paid for it; they were paid \$3,000.

Q. What was done four years ago I haven't any means of knowing, but I know now the mode of assessment is very different from that? A. That is four years ago, and we presented that case to the State Board of Assessors, but it was like all other cases; the table was made up before the argument was heard and the table was not changed afterwards.

Q. You are not required to verify by oath are you, your assessments? A. Why?

Q. Well, you are not under the law are you? A. In regard to the assessed values?

Q. Yes. A. Our general oath I should say covers all our duties, but in regard to any specific oaths in regard to the market value of real estate, we are not obliged to.

Q. You as a commissioner do not verify the assessment-roll do you? A. We certify; that is all.

Q. Do you not verify it? A. No.

Q. Are you aware that in the other districts of the State, or counties of the State, the assessors are obliged under oath to make this return that they have valued that property at the price that it would be taken in exchange for other property? A. Yes.

Q. In other words at its fair market value? A. That is under the oath of '59; yes; that is all right.

Q. You are not obliged to take that oath? A. No; the deputies take that I say.

Q. They do not take that oath? A. The deputies take that.

Q. Not in that form? A. They take the oath that they are obliged to take as a solvent debt due from a solvent debtor.

Q. Have you an assessment-roll here? A. Yes.

Q. Form of oath? A. Yes.

Senator McNAUGHTON.—Just read the form of oath, Mr. Ivins, if you have it there. I would like to see it.

The WITNESS.—It is in the back part of the book.

Mr. IVINS.—The oath reads as follows: "State of New York, city and county of New York, ss.:"—and this is taken from page 12, being the oath of the assessor who assessed the property on One Hundred and Twenty-ninth street which we have referred to—"I, James D. Ames, one of the deputy tax commissioners for the city and county of New



York, do depose and say, that the foregoing annual record of the assessed valuations of real estate contains a detailed statement of all the assessable property in the twelfth ward east of the Eighth avenue and west of the Fifth avenue, being a part of the district assigned to me by the commissioners of taxes and assessments for the city and county of New York for assessment under their direction; that I have personally examined every house, building, lot, pier or other assessable property within said district; that in said assessment-roll is set down and given the street and ward map number of said real estate within said district, together with the name of the owner or occupant thereof so far as the same are known, and also in my judgment the sum for which said property under ordinary circumstances would sell for, and also all other information in detail relative to personal property and otherwise in this ward which said commissioners had from time to time acquired, has been furnished as required by law. Signed, James D. Ames, deputy tax commissioner. Sworn to before me this 11th day of January, 1890. Morgan J. O'Brien justice Supreme Court."

Senator FASSETT.— Does that show that they have fixed the value at what it would ordinarily sell for?

Mr. IVINS.— The phrase is, "and also in my judgment the sum for which said property under ordinary circumstances would sell for."

By Mr. IVINS:

Q. Now, under ordinary circumstances, Mr. Coleman, and assuming that that particular property on One Hundred and Twenty-ninth street were not the property of Mr. Astor, and taking into consideration its rental value, we have understood you to say that it is of the value, sale value, of \$12,000? A. About twelve.

Q. Then, Mr. Ames has made a mistake in his oath, has he not? A. I am a bull on real estate; he might be a bear; I could not say.

Senator FASSETT.— No; if you are right he must be wrong.

The WITNESS.— No; I do not say I am right.

Q. What right have deputy tax commissioners or commissioners to be bulls or bears on real estate under their oath of office? A. My ideas—I go pretty high values up there; he might not think the same as I do; I am very glad he don't.

Q. Now, Mr. Coleman, what do you understand the law to require in regard to the manner of determining values for the purpose of assessments?

Senator FASSETT.— Not of determining but of fixing.

Mr. IVINS.— Fixing.

THE WITNESS.— Oh, the marketable value.

Q. The market value? A. The market value, yes; fair marketable value, and when I say fair I mean that it is not our purpose nor shall not be while I am in the tax office to look upon all the sides that would make the value anything more than what the city should receive by taking a time when property is placed in the market with the object to buy and an ordinary person would come along and buy it at a fair, ordinary value; I am not going to undertake to have the taxpayers pay sums of money on property that people will go and offer when they know they can not purchase.

Q. What has that to do with the law which fixes the rule according to which you are to fix assessments? A. Well, I claim that the fair ordinary marketable value is the only law that we are governed by, giving the benefit to the taxpayer of all doubts.

Q. Well, assuming that the fair marketable value is all then in this particular case that we have referred to, has the law, in your judgment, been complied with? A. Under the circumstances; yes, sir.

Q. Wouldn't you now, having had your attention specifically called to the facts of that particular case, hold your deputy tax commissioner responsible for an under valuation of that property, or would you approve of his valuation and make it your own act? A. This year I would approve of him, sustain him.

Q. Is there any year when you would not have approved of him and sustain him? A. Ah, there might be; I have very often offered suggestions to that same man and told him where I thought he was wrong.

By Senator FASSETT:

Q. He is not the one to whom you addressed the letter of protest is he, Mr. Coleman? A. No, sir; that is Mr. Ames; he has been in the office since 1869.

Senator McNAUGHTON — Well, right here —

THE WITNESS.— And he comes from Lockport.

By Senator McNAUGHTON:

Q. Mr. Coleman, what did you mean yesterday by this answer: "I claim that in nearly all cases our rates on the ordinary marketable value of property where there is no object for the party to specially hold the property, that the valuation is eighty per cent;" what do you mean by that, Mr. Coleman — that is so in almost all cases? A. Yes; that is so in most —

Q. You mean then that the valuation you put upon property is eighty per cent of its marketable value? A. I claim that our basis

is nearer eighty per cent, taking the ordinary — and I claim even upon this very same piece of property that Mr. Ivins spoke about that last year that that might be placed in the market and the lines of the park defined, that if it was outside of the park, just outside of the limits, I would not give the assessed value for it, because it would be disturbed, whereas other parties who can start a liquor store there or should start some kind of a restaurant there or could put it to some use where it could bring a large income for two or three years might give 16,000 for it.

Q. Well, that is not an answer to my inquiry? A. Yes; it is.

Q. The basis of assessment or valuation of the deputy tax commissioner is eighty per cent then of the real value of the property? A. About eighty per cent I claim throughout the city.

Q. How can you justify a commissioner who subscribes to that oath in view of the fact that you admit that he only values it at eighty per cent of its value? A. I do not say that he makes it eighty per cent; I claim that we are on a basis; I say that I do that.

Q. You approve of his valuation? A. Yes; certainly I do.

Q. That is eighty per cent? A. That might be.

Q. And then you make this act your act? A. That might be.

Q. Well, is not that true? A. It is as long as I sustain him.

Q. Then I come back to this inquiry: How do you justify an oath of the deputy tax commissioner of that kind where he says that under the statute that he assessed the property at a sum, which in his judgment, such property was worth under ordinary circumstances and would sell for that sum? A. When I know that every State assessor in the city of New York are assessing between twenty-five and seventy-five per cent, evading the law for matters of saving their quota on State taxes.

By Senator FASSETT:

Q. Then, it is not an evasion of the law, is it, Mr. Coleman? A. I claim that we are violating our oath of office when we go on a higher basis; giving the taxpayer a leeway of twenty per cent in their favor for fear that any reaction might take place during the year because we have to assess a year ahead.

By Mr. IVINS:

Q. Then you are not violating your oath of office any more than any other fellow is? A. We are not violating it at all I claim; the others are.

By Senator FASSETT:

Q. Why is eighty per cent not a violation and seventy-five per cent a violation? A. It gives the taxpayer the benefit because we assess a year ahead.

Q. Don't the others give the taxpayer the benefit? A. No; not when they tax thirty-five, forty and fifty per cent; we do not claim we do that.

Q. Is not any percentage of actual assessment under the real, fair, marketable value just so much an evasion of the law? A. No, sir; it is not, for this reason—

Q. So that if one per cent is not an evasion, why is fifty per cent under valuation an evasion? A. Well, there are—

Q. How much per cent under valuation must there be to constitute an evasion of the law? A. The risk that a man runs one year ahead in regards to depreciation—in regard to fire.

Senator FASSETT.—That is not an answer to my question.

By Mr. IVINS:

Q. Do you levy assessments on the basis of risks one year ahead of present sales value? A. We take all those things into consideration.

Q. What risk does Mr. Astor run one year ahead that results in the taxation of his property at \$8,000 which you now say you think is worth twelve? A. You might ask him; I do not know.

Q. If you don't know, how do you take it into consideration? A. I have my views on the matter the same as he does, perhaps.

Q. That is forty per cent difference? A. I do not know anything at all about that.

Q. Is not \$8,000 forty per cent of twelve? A. That might be, but may be Ames thinks that property is worth 10,000; I consider it is worth twelve.

Senator FASSETT.—It is thirty-three and a third per cent.

By Mr. IVINS:

Q. And say thirty-three and a third per cent less than twelve; now, is that thirty-three and a third per cent an evasion? A. I do not claim it is.

Q. Well, suppose Mr. Ames had made it fifty per cent instead of thirty-three and a third per cent, would it have been an evasion? A. I think it would.

Q. When do you begin to hold Ames responsible? A. Because I claim here that if this man had assessed a piece of property at \$5,000,



worth ten, it would be an evasion, but when he takes and assesses it at \$8,000—

By Senator FASSETT:

Q. And it is worth twelve, isn't it an evasion? A. I do not think it is worth twelve; I say, in my judgment, it is worth twelve.

By Mr. IVINS:

Q. Supposing that property were in the market to-day, Mr. Coleman do you suppose I could buy that particular piece of property for \$16,000? A. I do not know whether you can or not.

Q. Don't you believe I could? A. I think you could; certainly I do; I know it.

Q. Do you think I could buy it at \$16,000? A. Yes, sir.

Q. As compared with the values right in the neighborhood of other houses? A. Why certainly.

By Senator FASSETT:

Q. Let's get back to this thing, because I want an answer to this question and I am going to have it if I keep you here two days. A. All right.

Q. I want to know how much percentage under valuation constitutes an evasion of the law, in your judgment? A. I don't claim that we are evading the law; I claim that when we assess property at about eighty per cent, then we take into consideration all—

Q. Eighty per cent of what? A. Eighty per cent of what might be the selling price of property.

Senator McNAUGHTON.— Get that—

The WITNESS:—Oh, I know what the law says; I know all about that.

Q. When you assess it at eighty per cent of the valuation which the law says it should be fixed at, you are still within the law? A. I claim that we are still within the law.

Q. But when you place it at seventy-five per cent of what the law says it should be placed at, are you still within the law? A. Well, perhaps we would be within the law.

Q. At what point of under-valuation would you violate the law? A. That is altogether owing to the location, the depreciation and appreciation of property; if it is property going down rapidly, same as South street went down, or Avenue B went down when the Morgan Iron Works closed—

Q. Oh, no. A. Oh, yes.

Q. Have you any right under the law to take into consideration what the valuation of property is to be next year? A. We have a

right to take all these elements into consideration as long as we are assessing a year ahead, certainly.

Q. Will you just point out to me that part of the law which gives you any such right? A. I can't do that, but at the same time common sense and common justice compels us to do that.

Q. There is a difference of judgment about that? A. There should not be any difference of judgment at all; we make an assessment under the existing—

Q. You have not any business to assess property to-day with reference to what its value is to be ten years from to-day? A. No.

Q. Or next year? A. Oh, yes, we have.

Q. The law does not say so. A. We are making an assessment now for next year; our assessments are different from yours in the country; you commence yours in the middle of the year and you are able to judge on both sides of the rope; we are making our assessment at the present time where you pay next December; we are judging a year ahead.

Q. You have no other authority than that given you directly by law? A. That is all.

By Mr. IVINS:

Q. You say a year ahead; you are making them three months ahead. A. They pay next December.

Q. They pay their taxes, but the taxes are for the year which begins on the first day of December? A. Yes.

Q. Then it is entirely immaterial when they are paid, is it not? A. It is immaterial, of course.

Senator McNAUGHTON.—In the country districts the assessments are made in May and the taxes are not paid until the next January, February or March?

The WITNESS:—Exactly.

Senator McNAUGHTON.—So there is nearly eight months ahead there.

By Senator FASSETT:

Q. Now let's get back to our mutton; under the law, you are directed to assess this property at the value which, in your judgment, such property, under ordinary circumstances, would sell? A. Yes.

Q. Now, you have told us that the rule in this city was to fix it at eighty per cent under such valuation. A. No, I didn't say anything of that kind; I claimed that our basis throughout the city of New York, if the property was placed in the market for sale, and in ordinary times, would say that we are on perhaps maybe an eighty per cent basis of what the selling price would be.

Q. Under ordinary circumstances? A. Under ordinary circumstances; but, understand, I have seen—

Q. Why, if it is right to make it eighty per cent, why haven't you the authority to very properly and legally make it at seventy-five per cent? A. Because past experience has shown me that; when we were on a sixty-six per cent basis in 1873, that in 1874, after the panic had struck us, that three years went by when we were on a ninety-five per cent basis, and in 600 cases out of a thousand cases we had property assessed above what it sold for; now, from my past experience I am not going to try those things again; I am going to keep below the marketable value, and I wouldn't care what the orders were—

Q. You wouldn't care what the law is? A. No; I wouldn't care what the orders were; I complied with the law, to every figure of the law, to every letter of the law during the experience I had for the last twenty-two years.

Q. I do not think experience enters at all into this thing? A. I claim it does.

Q. What right have you, as a tax commissioner to consider anything except the present value of the property and the sum at which it would sell under ordinary circumstances? A. We do consider all those things.

By Mr. IVINS:

Q. How long has Mr. Parris been in the board? A. A couple of years.

Q. He has had no such experience, has he? A. No, sir.

Q. What would he do under like circumstances? A. I don't ask him.

Q. What would any commissioner do who had not had the long experience you have had? A. I don't know; you better ask him.

By Senator FASSETT:

Q. Mr. Coleman, what you mean is, taking into consideration all your experience, and the relations of New York city to the rest of the State, you come as near to fulfilling the law absolutely as you can in justice to New York city? A. More near, a great deal more near; I claim that we are—

Q. You are more interested in protecting the interests of New York city than you are in following exactly the letter of the law? A. We don't consider about the letter—we don't consider about the State taxes at all; we do consider we are paying more than our share; we try and comply with the law.

Q. If you do not consider state taxes at all, what object is there at all in keeping eighty per cent under your valuation? A. Because

we try and comply with the law; we are carrying out the law in the way we are assessing; and now, had you the same experience I have had in the tax office, you would say twenty per cent is a low margin below the marketable value, from what I have seen take place year by year.

Q. Just get right back again and tell me what right you have to assess one single per cent under the sum which the property would ordinarily sell, in your judgment? A. Because, I have seen property depreciate twenty per cent in one year, and for that reason I give that benefit to the taxpayers.

Q. Have you any right to do that? A. I claim I have.

Q. Under what provision of law? A. Matter of justice; equity.

Q. That is outside of all law, then; that is under a higher law? A. We must act, govern, by justice and equity, I claim.

Q. Eighty per cent is the measure at which justice and equity will excuse a man in making under oath the actual valuation? A. I give him the benefit of the percentage of the marketable value of the property that may be received for one year ahead.

Q. If you have the right to put it down to eighty, why haven't you the right to put it down to fifty? A. Common sense governs all that.

Q. Simply a question of common sense? A. Simply a question of common sense.

By Mr. IVINS:

Q. Do you think twenty per cent discount would be a fair legal definition of the word equity? A. I think it would be an honest percentage to allow the taxpayer one year ahead.

Q. Now, turn to this property of the Astors on Thirty-third street and on Madison avenue? A. Which piece do you mean?

Q. North side of Thirty-third street? A. Between Fifth and Madison?

Q. Yes; here is a house that is not owned by Mr. Astor, but is owned by Mr. E. N. Benjamin, the book shows; street number, 17 East Thirty-third street; that is a lot twenty-five by ninety-eight, and it has on it a house twenty-five by fifty-two, with an extension; the house is four stories high; that is assessed at \$22,000; is not the market value of that house much more than that? A. Yes.

Q. What is the market value of that house? A. Chances are that the property would sell for about twenty-six or twenty-seven thousand.

Q. Would not that property sell for 35,000? A. No.

Q. Why not; because of the character of the improvement? A. Without there was some special object, a man couldn't buy it for that, any ordinary values; it wouldn't pay the interest on that.



Q. These houses of Mr. Astor's adjoining, which are on seventeen feet and nine inch lots, running from numbers three to thirteen inclusive, are valued at \$118,000; assessed at \$18,000? A. Yes.

Q. Do you know what the rental value of those houses is? A. I don't.

Q. Do you know whether any steps have ever been taken to find out the rental value of the property? A. No.

Q. Do you suppose those houses can be rented for \$1,800 a year? A. I don't think they could.

Q. Do you suppose they could be rented for \$2,000 a year? A. Perhaps so.

Q. Would you be surprised if you found that they were renting for \$2,500 a year? A. No; not surprised at all.

By Senator FASSETT:

Q. Well, that is under your reservation that you are not surprised at anything? A. No.

By Mr. IVINS:

Q. Suppose those houses rented from twenty-two to twenty-five thousand dollars a year — A. Twenty-five hundred.

Q. Twenty-five hundred dollars a year; what effect would that have in determining the assessable value; and on that basis, what do you consider the assessed value to be? A. Well, that is whether the one rents for them all; whether all rents for that.

Q. Any one which would rent for it? A. That would be altogether owing to the character of the business or the occupant, or things of that kind; all those things come in.

Q. Do you know the house occupied by White, Howard & Co., on the northwest corner of Thirty-fourth and Madison avenue; used to be owned by Anson Phelps Stokes? A. Yes.

Q. Just turn to that? A. Thirty-seven feet.

Q. This is the property of Alida Cary, so far as the books show, is it? A. Yes, sir.

Q. Valued at \$90,000 for the purposes of assessment; what do you think that lot would be worth, if there were no building on it, in the open market, thirty-seven and three-eighths by ninety-five, and the house covers the entire lot? A. Well, the chances are that property there, being worth about twenty-two dollars a foot, perhaps would bring it \$75,000.

Q. That property being worth twenty-two dollars a foot, would be worth \$75,000 for the land? A. Land.

Q. That would then leave \$15,000 for the assessed valuation of the house? A. Perhaps so.

Q. That is a large, four-story, freestone house, thirty-seven and three-eighths front, ninety-five in depth? A. Yes, sir.

Q. How much under assessment is that \$90,000 on that property? A. You are getting at it the wrong way.

Q. Well, I will take that way first, and then I will take it another way; I will take it two ways? A. Can't be answered that way; you asked me the value of that property vacant; that property vacant and the property improved the way it is are two different values; the lot is not worth anywheres near that price, improved the way it is.

Q. What is that lot worth with its present improvement? A. That lot, the way it is improved and going, would be altogether owing to whether a man wants it for business purposes or residences; that wants to be changed into business right along on Thirty-fourth.

Q. That particular piece has been changed into business now? A. Well, perhaps it has.

Q. Have you ever heard what White, Howard & Co. pay for it? A. No.

Q. I have been told that they pay \$5,000 a year; do you think that is an excessive rent? A. For the property as it stands?

Q. Yes. A. Not if they want it very badly.

Q. Well, they want it bad enough to take it? A. Well, that might be.

Q. Now, assuming — A. That is one of those special things where people want a certain location and pay a high price for it.

Q. Assuming that they pay \$10,000 a year; would \$90,000 represent the market value of that property? A. According to how long the lease was and how responsible the people were, and what alterations they are going to make.

Q. Assume it is a ten-year lease? A. That is altogether owing to whether they are going to destroy the present value of the property by making alteration to suit their business, and what is upon them, as to their responsibility — people fail in New York often.

Q. Assume this is a ten-year lease and they are obliged to leave the property in as good condition as they find it in, and that they also have to pay taxes and assessments and water rates in addition? A. That is one of the elements, of course, to come in; that property would be very cheap, under those conditions, cheap at \$140,000, if that is the case.

Q. Under those conditions it would be? A. Providing everything is guaranteed ahead.

By Senator FASSETT:

Q. That is in the most pessimistic view of it you can take, the property is worth \$140,000? A. If everything is guaranteed ahead.

Q. Why is it not the duty of the deputy tax commissioner to find out, if possible, just exactly such things as that? A. We could, perhaps, if we had as many men attached to our office as other offices in New York, but we have only got forty-five men all together.

By Mr. IVINS:

Q. Why should you not have enough men attached to your office to do this work in conformity with the law? A. We do in conformity with the law; we claim we do; there is no office in the United States, so far as the tax office is concerned, that will comply anywhere near us, in complying with the law.

Q. I find a lot here adjoining, or nearly adjoining that of the Cary's, the lot being forty-nine feet and four and one-half inches in width and 145 feet in depth, with two buildings on it, a stable twenty-eight by forty-nine and a house thirty-seven by ninety; that is one of the largest residence-houses of New York, is it? A. Yes, sir.

Q. It is one of the best known of the large residence-houses in New York? A. One of the has-beens; going back.

Q. It is the house occupied by Mr. Tenure, is it not? A. Yes.

Q. I find that the house is valued at \$85,000; what do you think that house would bring under the hammer to-day, that property, as it stands; the land, stable, house and all would bring under the market to-day? A. That is one of those pieces of property, Mr. Ivins, that no one could answer.

Q. Don't you have to answer it when you assess it? A. No; I don't; but at the same time I would be obliged, perhaps, may be, if I was to give my views, I would be obliged to answer it, but there are so many elements to go in, that you don't understand, that it would be almost impossible to make you understand.

Senator FASSETT.— Those elements you do understand.

Q. It is because neither the committee nor I understand it that we want you to explain it? A. That is the great trouble; here is a piece of property that you pick out, occupied by a very wealthy gentleman, built there, and it never has paid four per cent from the time it was improved up to the present time —

Q. How do you know that? A. I know it from the examinations I made at the time the buildings were going on, in progress, and what the people were going to do who occupied it, and after they went out of it, what rents they asked for it.

Q. How do you know it has never yielded four per cent; in order to get at that you must know what its present revenue is? A. I examined it when it was building; I knew what it cost them to build?

Q. How long ago was it built? A. Eleven years ago.

Q. Can you by watching a house when it is built, tell what return it will yield on the investment eleven years after? A. Well, if I can't tell anything in regard to real estate in New York, I would like to know what it is.

Q. That is not an answer to my question?

Senator FASSETT.—We have found out what it is; you can't tell us what that property is worth.

The WITNESS.—I can tell you what I think it is worth.

Senator FASSETT.—Why don't you; that is what we want to know?

The WITNESS.—For residence purposes it is worth one value —

Senator FASSETT.—What, for residence purposes?

The WITNESS.—But for an ordinary value there, in ordinary times, without a man knowing what to do with the property, and having any object ahead, the chances are it would sell for \$130,000.

Q. Suppose he had no object ahead? A. Without he had a special object ahead.

Q. And if he had a special object, it would probably sell for more? A. Yes, sir.

Q. And that is assessed at eighty-five? A. Yes; assessed at eighty-five.

Q. There is a difference then of \$50,000? A. Yes; pretty near \$50,000.

Q. On that one piece that is somewhat more than your legal, equitable and just margin of twenty per cent? A. Might sell for 125; might sell for 130; can't say whether it would sell for over 115; at the same time that property is improving right there, the land is.

By Senator FASSETT:

Q. We are not asking you to guarantee a price at which that property would sell, but your judgement now as a real estate expert; we ask you to place the value and you place it at 135? A. I say it might sell at 135.

Q. Good, cheap property at that? A. No; it wouldn't pay an interest to the party at that, or rental value.

Q. If you want it for a home there to live in, what would it be worth? A. The people who are occupying those large homes are not going down to Thirty-third street and do it, they are going uptown.



By Mr. IVINS:

Q. Now turn to Fifth avenue between Thirty-fifth and Thirty-sixth streets; I call your attention to the house of James Kernican, being number 384 Fifth avenue; that is twenty-eight feet front by 100 feet deep in the lot, the house is twenty-eight feet by seventy-one feet, with an extension; it is four stories high; you know that house is exquisitely built and elegantly furnished, don't you? A. Very nicely; yes.

Q. Very nicely, both externally and internally; that is assessed at \$70,000; what do you think the market value of that property is? A. If you don't go into the real estate, chances are it would bring \$85,000, but if you were to leave it in and decorated the way it is, with all those panels and things brought from abroad, it ought to bring more money.

Q. Do you assess those other things as personal property? A. Those things go in as personal property.

Q. Do you assess those things as personal property? A. We try and reach them.

Q. You certainly can reach them as realty, can't you? A. Yes.

Q. If you do not reach them as realty and try to reach them as personalty and fail, you lose them altogether, do you not? A. We don't lose them because we take and assess this man for personal property and compel him to swear off.

Q. How much is he assessed for personal property? A. I don't know.

Q. Then what would it be worth in case he did not walk off with any of the woodwork, panels and other matters of that kind? A. It is a mere matter of guess-work after an examination is made —

Q. In case he did not; what is it worth as it stands there as a house to-day? A. According to whether the decorations would please people or whether they would not; I can't tell about that; some people might go in there and rip them all out; you can't tell about these things; it is a very nice thing to sit here and answer these questions, but you know very little about them.

Q. That is what I want to find out about? A. I couldn't learn you, you know.

Q. You know the house that belonged to Mr. Eno, do you, on Fifth avenue and Twenty-seventh street? A. It did belong to him; this is all nonsense, this mere taking isolated cases, or pieces of property that has been given to you by somebody that is the very finest pieces and cream pieces in New York, and taking that as a criterion against 40,000 tenement houses in New York.

Q. We understood you to swear that each piece stood upon its own bottom? A. Oh, we do try to make stand on its own basis; certainly.

Senator McNAUGHTON.—You select any one piece of property yourself —

The WITNESS.—I am tired of that business.

Senator McNAUGHTON.—Wait till I get through with my statement. You select any one piece of property —

The WITNESS.—I have done that fifteen years. I am tired of it.

Senator McNAUGHTON.— — that is assessed for its full value in that whole list. Can you do that, Mr. Coleman?

The WITNESS.—I have selected thousands of pieces and given to the people.

Q. Can you answer me specifically this question; can you call the attention of the committee to a single piece of property in any of the assessment-rolls of this city that is assessed for its value, according to this oath in the law? A. I suppose I could if I made an examination.

Q. Now, will you please do so? A. Oh, I couldn't go over 160,000 pieces of property to make examinations of that kind.

By Mr. IVINS:

Q. Would it be so difficult to find one piece that had been assessed according to law? A. I would have to go over the records, of course, may be, to find pieces; we are not trying to assess property above the marketable value; we are not trying to do that.

Q. Now, take this property that is entered in the name of Amos R. Eno, being No. 233 Fifth avenue; that property has recently been sold, has it not? A. Yes; the Reform Club bought it.

Q. Do you know what was paid for that property by the Reform Club? A. I do not.

Q. It is assessed at \$85,000? A. Yes, sir.

Q. Would you be surprised to hear that the Reform Club had paid more than twice that amount for that property? A. I would not.

Q. Would what the Reform Club paid for that property be, in the eyes of an assessor, or a tax commissioner, a just basis for determining its assessed value? A. It would not.

Q. Why not? A. Because they wanted the location there, near the hotels.

Senator FASSETT.—Why, everybody wants a location, in everything.

The WITNESS.—Well, I know; you see I am not going to answer these questions, you know, for the purpose of having the city of New York placed in a position where you are trying to take and support the State Board of Assessors; not by any means.

Senator McNAUGHTON.— Mr. Coleman, that is not the theory that you are here for, at all.

The WITNESS.— I want that understood ; now, in regard to the Reform Club, that was this piece of property ; this is a piece of property right near a hotel ; it was an old-fashioned building there, and for years Mr. Eno lived there ; he didn't want to sell the property, because Mr. Eno is like Mr. Astor ; you have to pay him twice as much as the property is worth before you can get it ; that has always been the case with Eno ; he has never sold a piece of property for the last twenty years that he didn't get twice what anybody else would pay for it, and for that reason he waits for those people to come along ; he will tell you himself ; bring him on the stand and he will tell you himself, under affidavit, that that property ain't worth over \$130,000 ; still he got \$70,000 more for it.

Q. If it is worth \$130,000 and he got \$70,000 more than it was worth for it, then he got \$200,000 for it? A. I suppose he did ; I don't know what he got for it.

Q. It is assessed at eighty-five ? A. Well, no matter what it is assessed for.

Q. And even on the basis of what you say it would be worth, if that gentleman found a foolish club to pay \$70,000 more than it is worth, it is still assessed — A. At \$85,000.

Q. Some \$50,000 below what you say its value is? A. I am putting the Enos' value ; not what—I claim it is not worth over \$100,000, nor you can't prove it is worth over \$100,000, upon any basis whatever, upon an income of any kind whatever ; you can't prove it.

By Senator McNAUGHTON:

Q. Is it worth a hundred thousand dollars? A. The chances are it would sell for a hundred thousand dollars ; on no basis can you make it over a hundred thousand.

Q. Why is it not so entered on your roll? A. Because we take fifteen or twenty per cent below, same as we always will do.

By Mr. IVINS:

Q. Why do you say the chances are it would possibly sell for a hundred thousand dollars, in view of the fact that it has, within the present year, actually sold for about \$200,000? A. I don't care what it has sold for ; I don't care anything at all about what it has sold for ; why, within 125 feet of this very piece of property, although it has sold for twenty dollars a foot, within 125 feet of that very piece of property, you can go and buy to-day property for twelve dollars a

foot, within 125 feet, between Madison and Fifth avenue, where those three or four houses which were used for houses of prostitution.

Q. That is a different state of facts? A. I can tell you all those things and you don't know them ; that is the trouble.

Senator FASSETT.—The trouble is you are not willing to tell what you do know.

The WITNESS.—I think I know New York pretty well.

Mr. IVINS.—You are the very man we want to tell us about those things.

The WITNESS.—Yes ; I know, but I can't sit here and teach you all about New York.

Senator FASSETT.—You can sit there and answer questions honestly when you are asked, can't you?

The WITNESS.—I know, but at the same time I do, and I don't want to have you take and construe the thing—

Senator FASSETT.—Your business on this stand is to answer, honestly, the questions that are put to you?

The WITNESS.—Yes, sir.

Senator FASSETT.—And not to make any imputations on the committee, or to say that you are swearing here to protect New York city against the State Board of Equalizers, or that you are here to defend them ; if you will kindly answer them and answer them honestly, we will be very much obliged to you ; we have extended to you every courtesy, and been very patient under your lectures here, and I want it stopped?

The WITNESS.—I don't intend you should be lectured, but at the same time I feel this way about it ; that New York, with over 150,000 pieces of property — if you will take and go with me to the tax office I will show every record to you there and try and do everything I can possibly, but to pick out isolated pieces of property, owned by the Goelets or Astor's people, who will not sell—

By Senator FASSETT:

Q. You told Mr. Ivins every piece of property was valued on its own basis? A. Yes; yes.

Q. Then there is no such thing as selecting isolated cases? A. Well, I know, but when these people sell property, they sell it at an enormous price ; and as long as you take and pick out those pieces don't put that as a criterion.

Q. Senator McNaughton asked you if you would select any parcels of property in New York city?

Mr. IVINS.—Just turn to the first page, or any page.



Senator FASSETT.—You must not labor under the idea that this committee are your enemies; we want to work together in all that we are doing here.

The WITNESS.—I know, but at the same time I can not do it this way.

Senator FASSETT.—Suggest a better way.

The WITNESS.—If you will come over to the tax department I will give you all the information you want. The records are all open to you in the tax department, and I will stay with you a month if you want me to, but it is not fair to pick out pieces here and there.

Senator FASSETT.—You rake up a piece of property and you have to fix the valuation one piece at a time, have you not?

The WITNESS.—I know that. The deputies do that, I do not fix that.

Senator FASSETT.—I mean you and the department.

The WITNESS.—Yes.

Mr. IVINS.—Now in order to get a case which is not isolated, we will isolate a case; that is, we will take the first case in any tax book which comes to hand. [Referring to book.] Edison Electric Illumination Company, who have a lot fifty-six by ninety-eight feet, five stories high, being number 49 West Twenty-sixth street, and which is assessed at \$100,000. That includes ward numbers five, six and seven.

The WITNESS.—That is a plot of ground fifty-six feet by ninety-eight feet, and covered by a building five stories high, fifty-six feet by ninety feet. There is a piece of property that was built up and improved for a special purpose, to be used by the Electric Light Illumination Company. If the Electric Light Illumination Companies were all to combine in the city of New York and were to change their stations and this property was placed in the market in its present condition, it would not sell for what it is assessed for.

By Senator McNAUGHTON:

Q. Is there any probability of their doing that within a year? A. I do not know.

Q. Then why should you state it; why should you imagine that difficulty? A. For this reason, that a few years ago the gas companies consolidated, the Old New York, and Metropolitan, the Manhattan, and they all had property that they did not utilize, and they placed it in the market, and why should not these electric light companies do the same thing?

Q. Have you a right under the law to take those things into consideration? A. We have the right to view it on every side.

Mr. IVINS.—What would happen if a tax commissioner simply stood on the letter of the law? A. I don't know anything about that.

Q. Do you take into consideration the possibility that the buildings might be destroyed by fire? A. That is one of the elements.

Q. Will you point out where under the statute you have a right to take that into consideration? A. That is only one of the things; I can not enumerate all the things that I take into consideration; the trouble is you only select certain pieces of property.

Senator FASSETT.—By your objecting to our selecting property, do you mean that there would be favoritism shown in the assessment of property by the tax department?

The WITNESS.—No; if there is such a thing, I want to know it; but you are picking out property that you can not understand anything about unless you have some dealings with that property.

By Mr. IVINS:

[Referring to book.]

Q. Page 127 from the twenty-first ward book, I find the name Samuel Sloane; I also find the name Henry Cram, both of whom are well known citizens? A. They are well known citizens.

Q. And these are their residences, are they not? A. Yes.

Q. On East Thirty-eighth street between Fifth and Madison avenues? A. Yes, sir; they have a stable on the south side of Thirty-ninth street.

Q. Those are good houses? A. Yes, sir.

Q. They are well built houses? A. Yes, sir.

Q. They are on a good street? A. Yes, sir.

Q. One of the best streets in the city? A. Yes, sir.

Q. Cram's house has been assessed for \$45,000 and Sloane's house has been assessed for \$42,000? A. Yes, sir.

Q. And they are side by side? A. Yes, sir.

Q. And I suppose that the only difference in the houses which makes the difference in the assessment is the fact that Mr. Cram's house has an extension? A. His house has an extension.

Q. What, in your judgment, as a real estate expert, and not as a tax commissioner, for residential purposes, is the market value of Mr. Sloane's house to-day? A. Well, at the present time —

Q. That is the cream of the cream in location and everything, is it not? A. Thirty-eighth street has been deemed a very good street; yes, sir.

Q. What is the market value of Mr. Sloane's house to-day? A. The chances are that Mr. Sloane's house would bring \$60,000.

Q. Is not that house more valuable than smaller houses on the north side of the street a block or two further east? A. Oh, yes.

Q. Do you not know of \$100,000 having been refused for houses that are not as fine and that are not as large as this house on the north side of the street in the last few years? A. What location?

Q. Between Park avenue and Fifth avenue. A. On Thirty-eighth street?

Q. Yes. A. Well, there might be a smaller house that would bring more, but it might be a more valuable house.

Q. Do you think that I would have, if that house were offered for sale to-day, any chance of getting it at auction for \$60,000? A. I hardly think that you would just now.

Q. Do you think I would have a chance of getting it for \$70,000? A. Yes, sir; I remember the time when Sloane bought that at auction.

Q. What did he give for it when he bought it? A. He gave with the stable, running through, \$82,000.

Q. Is it worth any less now than it was worth then? A. A little less now; Thirty-eighth street did go back a little.

By Senator FASSETT:

Q. You draw a nice distinction between knowledge and belief; knowledge is the thing we see? A. I know that, I get so tired of tax talk that I do not care about talking it unless I am compelled to.

Q. Still it is one of the most vital interests. A. Yes; let me draw up a law for you, and I will reach all of those things.

Senator FASSETT.—We will be very much obliged to you if you will assist us.

By Mr. IVINS:

Q. You probably have had more experience in relation to those things than any one in the city; now to return to the matter of assessing the land itself in cases where one lot is vacant and the other is built upon; is the fact that the vacant lot is not yielding and revenues one of the reasons which leads to its being assessed at a less rate than the land that is built upon and bringing in revenue? A. Well, no; I told you before that the location of vacant property is taken into consideration, that the vacant property standing in the line of improvements is taken into consideration; we try to put that upon the same basis.

Q. Do the tax commissioners themselves make any oath as to the correctness of these appraisements? A. No; they certify that they have made an examination of the record books.

By Senator FASSETT:

Q. Are they required by law to certify? A. Yes.

Q. Can you show me which section requires that? A. No; I can not, but I suppose it is in the Consolidation Act.

Q. [Referring to law.] I do not see that you are obliged to certify.  
A. We do certify that the receiver's books are a correct copy of the record books.

Senator McNAUGHTON.—But not as to the correctness of the valuation?

The WITNESS.—No.

Q. You are not anywhere required to make an official certification or affidavit as to the accuracy, correctness or justness of the assessment-rolls, are you? A. We only certify to the correctness of the copy.

Q. That is the copy from the field book into the record book? A. No; the copy of the record book.

Q. Oh, copying into the assessment-roll from the record book?  
A. Yes.

Q. All you have to do in your official capacity so far as the assessment-roll is concerned is to certify that it is correct copy from the record book? A. Yes, sir; and then to return it to the board of aldermen.

Q. So far as there is any official responsibility as to its conforming with the law, the deputy land assessors are the only ones who are required to make an official certificate or affidavit? A. That is all.

By Mr. IVINS:

Q. Will you turn to your report for the year 1890 and find the list of exemptions? A. Here it is [referring to book].

Q. Isn't that summarized somewhere? A. I suppose it is in the back part.

Q. [Referring to book.] You will find it is summarized on page 40; it appears that there is now real estate exempt from taxation for the year 1890 in this city, of the appraised value of \$296,670,000; of that we will take the first ward to begin with; \$23,847,200 of assessed values of real estate appear to be exempt from taxation in the first ward of this city; what property does that consist mainly of? A. That is mostly government and city property down there.

Q. That is mostly government and city property? A. Yes.

Q. That includes the Trinity church property, does it not? A. Yes, that includes the church and the cemetery.

Q. Does it include the Trinity building? A. Oh, no; of course not; the Trinity building is assessed at \$600,000.



Q. Do you know what the aggregate rent-roll of the Trinity building is? A. I do not.

Q. That Trinity building belongs to the Trinity corporation, does it not? A. It does not.

Q. Who does it belong to? A. The last time that I knew anything about it, the ownership was in the estate of Daniel Fearing, and he died at Newport; they complained very bitterly in regard to the assessment, because they claimed that the new improvements in the first ward were taking away their tenants, because their building was old and did not keep up to the times; and since the Delaware Lackawanna and Western and the new Field building, which are both large coal corporations have been built, they have taken away a great many tenants that used to occupy rooms in the Fearing building.

Q. Let us take two buildings which are up to the times, the Delaware, Lackawanna and Western and the Boreal building; what is the Boreal building, the land and the building assessed at? A. I think it is \$700,000; it was \$800,000, but upon comparison that they made from two years ago, a comparison made by Wilton I think it was reduced \$50,000 or \$100,000, I forget which; it may be \$750,000 now.

Q. Do you know what the rentals of the Boreal building were? A. He brought in the rentals at that time, but I do not remember what they were now.

Q. Did he show you at that time what the net yield of the building was, after deducting all the expenses of maintenance, taxes, etc.? A. He had a list with him showing us all that it produced, with his argument; I forget what it was now.

Q. Is not that property worth \$1,000,000 in the market? A. Well, It might be for an investment on a four and a half per cent or five per cent basis, yes; it is not a substantial building; it is the old City Hotel; it is not well built, but it is well laid out for rental purposes though.

Q. Can you find the first in this book for the first ward; I can not find it; it seems to begin with the sixth ward? A. Yes [referring to book]; that is so; [speaking to employe] where does the first, second, third, fourth and fifth ward come in; it begins with the sixth ward?

Senator FASSETT.— What page?

The WITNESS.— Page 21.

CLERK.— These reports are not complete. They have just come from the printers.

Q. There seems to be some mistake in the printing? A. Yes.

Mr. IVINS.— We will take that up on Monday; but in the meantime I have one witness here whom I will call. I do not want to have him

come here again if I can help it, as he is employed in the civil service board, and I wish to finish him to-day; we will need Mr. Coleman on Monday to take up this personal tax matter.

Q. Mr. Coleman; what wards did you say Mr. Perry had made the assessments for? A. The seventh, tenth, thirteenth and seventeenth.

Q. Those are the wards as against the assessments of which you filed this protest with Mr. Bell? A. I wrote a letter.

LEE PHILLIPS, called as a witness, being duly sworn, testified as follows:

By Mr. IVINS:

Q. Mr. Phillips, what is your occupation? A. I am secretary and executive officer of the municipal civil service board.

Q. How long have you been there? A. The last time, since April third of this year.

Q. How long have you been in the civil service board? A. Since June 24, 1886.

Mr. IVINS.—I will say to the committee that the civil service board will be taken up hereafter, and then other questions in reference to Mr. Phillips' various places in the board will be taken up, but for the present I only wish to ask him a few questions on a particular subject.

Q. Are the papers containing the application for the appointment of Henry H. Perry to the place of deputy tax commissioner here?

A. They are [producing papers].

Mr. IVINS.—This recites that Henry H. Perry is his full name. It gives his legal residence as the Worth House, in Twenty-sixth street.

Q. Do you know whether or not the Worth is part of the Hoffman House, under the same management as the Hoffman House? A. I always understood so, but I don't know it of my own knowledge.

Mr. IVINS.—It recites that he is 38 years old. Mr. Perry is vouched for as a person of good moral character and capacity, of good repute and temperate habits, etc., as required by law, by Edward S. Stokes, hotel proprietor.

Q. That is correct; is it? A. Yes, sir.

Q. He is also vouched for by R. W. Taylor, physician? A. Yes, sir.

Q. He is also vouched for by John Hardy, lawyer? A. Yes, sir.

Q. Who is John Hardy, ex-member of Congress? A. That I do not know, sir.

Q. He is also vouched for by W. Bourke Cockran, lawyer? A. Yes, sir.

Q. Is that position subject to competitive examination? A. Yes, sir.

Q. Was there any competitive examination for Mr. Perry at that time? A. No, sir.

Q. Was any advertisement made or any notice sent out or any steps whatever taken to secure a competitive examination of different persons at the time that Mr. Perry was examined and appointed? A. Not to my knowledge; I was not secretary at the time, so that that was not a part of my duty to know that.

Q. Do the records show anything of the kind? No, sir; the records do not.

By Senator FASSETT:

Q. Would the records show that others were examined with him or not? A. Yes, sir; the record shows that there was only one candidate.

Q. Does it frequently happen, that in so-called competitive examinations, there is but one person examined? A. No, sir.

Q. It does happen once in a while? A. Once in a while; yes, sir.

Q. This is the examination; is it not [referring to paper]? A. Yes, sir

Q. Now, will you tell us what time intervened between the application and the examination, and what time intervened between the examination and the appointment? A. The application appears to have been sworn to on April 16, 1889; it appears to have been filed in the civil service office on the same day; the examination occurred on the nineteenth, three days later.

Q. Is not that an unusually short time for examinations after applications? A. Well, the applications for ordinary positions are being constantly filed, and then we call an examination to meet the necessities of a department, and some might come in just the day before the examination, but others might date back several weeks or several months.

Q. Is there any provision of the rules of the Civil Service Commission, or is the practice of the board to require that notice should be given that a number of persons shall have ample opportunity to file an application for such a place? A. No, sir; there is nothing in the rules; it has been the custom, since the first of April; we advertise all competitive examinations in the *City Record* for five days before holding the examination.

Q. You did not so advertise it this time, though? A. No, sir.

Q. That was not then the practice? A. No, sir.

Q. Then this is the act, is it not, that the man who first catches on to the fact that there is a vacancy and gets in an application, may occupy the entire field and be examined alone? A. If an examination be called; yes, sir.

Q. Now, on whose request was this examination called? A. That I do not know.

Q. Who did you say was in charge at that time? A. Mr. Ackerman.

Q. Do you know who secured Mr. Ackerman's appointment? A. I don't know.

Q. Were you not removed to make room for Mr. Ackerman? A. I was asked for my resignation, which I handed in.

Q. And Mr. Ackerman then took your place? A. Yes, sir.

Q. Mr. Ackerman is a warm personal friend of Mr. Cockran, is he not? A. I don't know as to that.

Q. Have you never been told that by Mr. Ackerman? A. I do not think so.

Q. Is not Mr. Ackerman the gentleman who resigned from that office and went to Europe to meet Mr. Croker during this investigation? A. He resigned and went to Europe, but I do not know what he went for.

Q. Were you not told at the time that that was what he went for? A. I saw that from the papers, but he did not tell me.

Q. Will you turn to that examination and put your finger on that part of it which refers to the fitness and qualification of this particular man to judge of the assessed valuations of real estate? A. Yes, sir.

Senator FASSETT.—The so-called technical part? A. Yes; that consists of forty questions in this case.

Q. Are the questions and answers both here? A. Yes, sir; forty questions and the answers are appended.

Q. The report shows that he passed seventy in that part of the examination? A. No; that seventy was mental arithmetic.

Mr. IVINS.—The first question was: "Describe the duties of a deputy tax commissioner?" the answer was: "The duties of a deputy tax commissioner are to assess all the real estate, both improved and unimproved, wharfs, piers, bulkheads, water pumps, etc., in the district assigned him by the commissioners of taxes and assessments. Q. What are assessed values? A. The amount placed upon for taxation;" that is literally the answer; the handwriting is very good; third, "what is the first most important feature to consider in determining the value of a piece of property? A. Vacant property, location; improved property, character of building thereon;" fourth, "what are actual values? A. What it would sell for under ordinary circumstances;" the words of the statute; fifth, "name the three most active elements which constitute the value of a piece of property? A. Location, surroundings and rental;" seventh, "how many city lots are in an acre? A. Sixteen, including streets;" eighth, "what is the length of the city in miles? A. Say thirteen miles;" he was then asked to bound the city of New York; how many wards there were in



it; what ward he lived in; what ward city hall was in; what ward Central park was in; what ward Randall's island was in; what is the most valuable piece of land in regard to improvements, and what its value per square foot is; he says Fifth Avenue Hotel.

Senator FASSETT.—Mr. Coleman, was this his first experience in the tax department?

Mr. COLEMAN.—No, sir; he had been there before.

Senator FASSETT.—How long?

Mr. COLEMAN.—He had been out of the office about four or five years, I think.

Senator FASSETT.—And how long had he served?

Mr. COLEMAN.—He was clerk for two years and deputy for two years.

Senator FASSETT.—About four years?

Mr. COLEMAN.—Four years; I think; oh, yes; he served longer; he served nearly six years.

Mr. IVINS [Continuing]. — He was then asked "how do the values of other desirable pieces compare with the most valuable plot;" he was asked to name five such locations; he was asked "what, as a rule, is the most valuable side of the street, the north, south, east or west; he was asked how much more valuable corners are than inside lots, and why; he was asked to name the five elements, after size and location, which most effect the value of vacant property; this answer casts some light on one of the questions and answers before; "name the five elements, after size and location, which most effect the value of vacant property? A. Character and grade of lot, future outlook of neighborhood, adjacent buildings, recent sales in the vicinity and general character of improvements going on in said proximity."

Senator FASSETT.—Does he put in there, "and what the purchaser wants to use it for?"

Mr. IVINS.—No; nor does he say anything about the rental values.

Senator McNAUGHTON.—Nor the possibility of being destroyed by fire.

Mr. IVINS.—I will ask Mr. Phillips to give me a complete copy of this record, so that it can be spread on the minutes, and it will not be necessary to take up those questions any further.

Senator McNAUGHTON.—Let me read what was testified to yesterday in regard to Mr. Perry, page 1880. Mr. Coleman testified that Mr. Perry was appointed about two years now. "He was in the office previous for several years between 1874 and 1881; he was clerk first of, and then a deputy, and then he was removed by Ashton, I think, in 1881, and then reappointed two years ago through the civil service, on application made by the tax board for a deputy; the cause of that application was that we had a gentleman who had charge of Mr.

Perry's district by the name of Martine, and in marching up Broadway one day with the militia, he was suddenly struck down, paralyzed, and we had to apply at once for a man to take and complete his work." That probably accounts for the haste.

By Mr. IVINS:

Q. Have you the application of the tax board there? A. No, sir; we do not file that with the papers.

Q. Did you say what date the application of the tax board was? A. It does not appear here.

Q. It does not appear there? A. No, sir; they make a requisition on our office.

Q. Do you know how it happened that Mr. Perry filed an application, and no one else did? A. No, sir; I haven't any recollection of the circumstances; I do not remember the gentleman at all.

Q. This falls under the class of competitive examinations as provided for by your schedules? A. Yes, sir.

Q. Do you know whether any steps were taken to have a competitive examination? A. No, sir; I do not know that there were any.

Adjourned to Monday, October twentieth, at 11 A. M.

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NEW YORK, *October 20, 1890.*

Present—Senators Fassett, McNaughton, Ahearn and Birkett.

Mr. IVINS.—The witnesses who have been subpoenaed here, Mr. Chairman, will not be needed until the afternoon session, except Mr. Coleman. Mr. Coleman will take the forenoon.

Senator FASSETT.—Mr. Coleman, I understand, wants to attend a meeting of the board of estimate and apportionment, and does not want to be here after 10 o'clock.

Mr. IVINS.—Then we will let him go at 12 o'clock, and take up one of the other commissioners, and he then can come back after the meeting of the board of estimate and apportionment.

Mr. COLEMAN.—I will be at that meeting for the next month from 10 o'clock until four. While I have, of course, I would like to be here, the other is mandatory, and I can not very well refuse to attend.

Senator FASSETT.—You had better stay here at this meeting until 1 o'clock, and then we will excuse you, and try and not bother you any more for the present.

Mr. COLEMAN.—All right.

Examination of Mr. Coleman resumed.

By Mr. IVINS:

Q. Will you turn to the report of 1889; I want that list of exempt property which we left off at, at the examination last Friday? A.

Yes, sir [referring to report]; do you want to start on the first ward?

Q. I would like to see how it is by wards? A. This is not the one; 1888 has got the full list in; this is only the edition for 1889; we have got hundreds of them over in the office.

Q. Will you send for one of them? A. Yes, sir.

[Report sent for.]

Q. Well, then, we will pass that for the minutes; will you tell us what the rule is with regard to the taxation of property in course of improvement? A. In the course of erection?

Q. Where the buildings are in the course of erection? A. The custom is that those buildings in the course of erection are examined on the first route made by the deputy assessors, and are also then examined between the first and the fifteenth of December, and a supplemental report is made by the commissioners as to the progress of the buildings; they are then re-examined on or before the second day of April, according to law, so that in case we should want to increase them, we are obliged to give a notice twenty days before the closing of the books; that is sometimes done, but as a general thing, without they make very rapid progress, we do not do it, as the assessment made upon the first of January is generally made by the deputy on the ground, and knowing about what progress they will make with the improvement.

Q. Has your attention ever been called to the fact of any case where property which was being improved, where the buildings were either in the course of erection, or were completed, although still unrented, had gone untaxed, so far as the improvement was concerned? A. Had gone untaxed so far as the improvement was concerned?

Q. Yes. A. No, sir.

Q. If that occurred, whose fault would it be? A. It would be the fault of the commissioners, providing their attention was called to it.

Senator FASSETT.—Presumably in the first instance, however, it would be the fault of the deputy. It would be the fault of the deputy for not finding it in his district, and if he had found it and had reported it, then the fault would lay with the commissioners for not seeing that the deputy did his duty.

Q. That is one of the things that is checked off, is it not, by the reports from the building department? A. That is one of the things that is supposed to be checked off by the application clerk and the deputy in regard to the report from the building department.

Q. What district has Mr. Murray? A. He has got the Twenty-second ward.

Q. How long did you say he had been in the department? A. He was appointed by John Wheeler in 1874.

Q. What is the rule in the assessment of made lands along the river side? A. They are generally in properties that are accessible and attached to the upland; the orders are to assess them the same as all other lands, but where the land is under water, and where it is almost impossible to get perhaps the proper soundings of the depth of the water, or the proper soundings of the thickness of the mud there, the deputy generally assesses it at less than what the owner thinks it is worth, but at a sum that he thinks, in his judgment, it would sell for.

Q. The latter case is the case of lands under water? A. The case of lands under water; yes, sir.

Q. The case that I speak of is made land? A. The orders are to assess that the same as other property, so far as its market value is concerned.

Q. Have you ever heard of a case in which the made lands, along the water front, of substantial value, have gone untaxed? A. Oh, yes; we discovered in 1888, by an examination of the water front — orders I think I gave out myself to each of the deputies who had charge of water fronts, and we found that our maps were not correct, and that some made lands were not followed by the deputy or the surveyor, and had not been taxed; I don't know how long this went on, but as soon as we found it out, the orders went out to every deputy to put on all made lands out to the exterior lines; the maps were changed; that is the time I had the surveyor changed when I found that out.

Q. In whose district were those made lands? A. There were some in the twenty-second.

Q. That is Mr. Murray's district? A. Yes; and there were some in Mr. Anthenries' district, that is the twelfth ward on the east side along the Harlem river; on the North River and on the East River north of Eighty-sixth street.

Q. Was Mr. Murray responsible for the failure of having assessed those lands in the twenty-second ward? A. I do not know; I do not think he was, because when I made the examination of the maps at the time, I found that there were some omissions from the tax-book; I called the attention of the commissioners to it, the same as Mr. Bell did, to the necessity of having a change made in the surveyor's department.

Q. What rule prevails among the deputy commissioners in the assessment of water front property as to the determination of its



value? A. Well, under Judge Earle's decision of the case of Smith against the Mayor, in 1878, before that time bulkheads and piers were assessed at a nominal sum, for the simple reason that for years the parties who owned some of them refused to pay taxes, and the sinking fund was always afraid to sell them for fear they would be held liable for any damages done, but when this case of Smith against the Mayor came up, Judge Earle's decision fully justified the commission in going ahead and assessing all bulkheads and piers and lands under water, and ferry houses and things like that, the same as we are assessing them now, taking in the elevated structures, taking in the gas mains, and taking in other mains belonging to private corporations; since that time we have assessed them.

Q. Do you know the water front property of the Union Stock Yard Company? A. I know of it; that was bought under the Condemnation Act.

Q. That is on the North River and Thirtieth street? A. Part of it is there, and part of it is further up; there has been a compromise made on account of claim of ownership this last year; there was a question there between the New York Central and the city, the New York Central claimed that they owned it, and the dock commissioners claimed that they owned it, so I believe the New York Central has waived all its rights, and now it is city property; that is within the exterior line of Twelfth avenue.

Q. I want to confine myself more particularly to the property owned by the stock yard company? A. Then I should have to get the map.

Q. I would like to see what it is, what it is assessed for, and I would like your judgment as to its actual value? A. Certainly; you would have to get the twenty-second ward map.

Q. Will you send for it? A. Yes, sir.

[Map sent for.]

Q. I suppose that map is in the field? A. No; I think they are all there, because I understood the deputies were all subpoenaed; it is the twenty-second ward, volume 2.

Senator FASSETT.—The fact is, we will have to take this committee and go right over to the commissioners before this examination is finally concluded.

Mr. IVINS.—Oh, yes; we will have to go over to the commissioners' office before this examination is concluded.

Senator FASSETT.—I have in mind to take up a great many individual instances for the purpose of making a careful estimate of each one, so as to base a ratio on it, and we can not do it here.

Mr. IVINS.— We will have to go there before we get through, where we shall have the books actually before us. In the meantime, Mr. Coleman's messenger can get this map.

Q. Now, while he has gone after that will you describe to us generally, beginning at the very commencement the process which is employed for the assessment of personal property for the purposes of taxation? A. You want to start in at the commencement, do you?

Q. I want to start in at the commencement. A. Well, the personal department is under the supervision of a gentleman by the name of Cadwell.

Senator FASSETT.— A deputy tax commissioner?

The WITNESS.— A deputy tax commissioner in charge of the personal department. He was appointed about twenty-five years ago I should judge, and he, in accordance with the custom of the department, commences upon the first of May, with regard to his books, about making changes as to residence, so as to be prepared, that when the new directory comes out all addresses will be corrected, are those who move on the first of May. We have an arrangement made with Mr. Trow to get the proof sheets about six weeks in advance of the public, so that we would not lose any time, and coming then upon the first of September, the names are all upon our records, their proper addresses, and he uses his judgment from his experience and from what he has passed through in regard to the affidavits of those who correct or swear off, in placing the sums opposite each individual name, as to what they shall be assessed for. In regard to estates, trustees, guardians or executors, they, of course, come under us by the searching of the records in the surrogate's office. In regard to the corporations, there we have a record of all corporations doing business within New York, and then we get also a new, clear record from the county clerk's office of all those that have been added to the list during the last year. They are assessed upon their capital, so that when we open the books upon the second Monday in January, after being sworn to before a justice of the Supreme Court, the total valuations upon our records last year amounted to about \$1,650,000,000, I think, which was sworn down after the books had been closed to about \$294,000,000.

Q. One billion and six hundred and fifty million dollars was for what? A. I say that was the total sum placed upon the records when we opened the books.

Senator FASSETT.— That was in excess of the amount of real estate?

The WITNESS — Yes; that was sworn down to about two hundred and ninety odd million dollars.

Q. One billion and six hundred and thirty-eight million dollars?  
A. Is it; \$1,638,000,000; I forget.

Q. It was; and it was cut down to \$229,179,000? A. No; more than that, two hundred and ninety odd million dollars; I will give it to you right here [referring to report].

Q. This is the accountant's statement taken from your books? A. Is it?

Q. Yes. A. Well, I will give it to you right here.

Senator McNAUGHTON.—Get that correct, Mr. Ivins.

The WITNESS.—You are correct, sir; \$229,179,201.

Q. That is right; that is as I have it? A. That is right, sir.

Q. Now, the number of individual names on your lists at the opening of the rolls of this year was 24,030? A. Yes.

Q. Which I find was reduced to 13,890? A. Yes, sir.

Q. Now, on reference to your last report —

Senator McNAUGHTON.—That is for personal property? A. Yes.

Mr. IVINS.—This is all personal property that we are talking of.

Q. I find the following is a statement of the number of affidavits relative to personal statements taken upon examination by each commissioner for the years 1886 to 1890, so far inclusive, and I find that the number reduced, that is, 12,320 were reduced upon affidavits taken, 1,726 of them before you? A. Yes.

Q. Four thousand seven hundred and sixty-two of them before Commissioner Feitner? A. Yes, sir.

Q. Four thousand eight hundred and sixty-five of them before Commissioner Parris? A. Yes, sir.

Q. And I find the report explains that the excess in number of affidavits taken by the other commissioners as compared to those taken by you, is due to the fact that a great deal of your time is taken up with other duties incident to your office? A. Yes.

Q. Now, will you explain the method of taking those affidavits? A. Yes.

Q. And what the affidavits are made to contain, and what examination the parties seeking to have their names erased from the books are subjected to? A. It has been the custom, although not the law, of the department, previous to the opening of the books, to have notices all made out and addressed to those who are on our records, notifying them that they are assessed for so much, and that any complaint will be listened to or corrected on or before the thirtieth of April, providing that they want to make such complaint; on the second Monday of January the books open; we generally send out, for instance, the names beginning with A, B, and C, so that we will not be overcrowded,

and we keep going on in that way until the last are exhausted; those who wish to complain bring their notices or call at the office and make the following affidavit, after being subjected to an examination as to what their business is, how much personal property they have over and above their debts, what their personal property consists of, what are they in debt for, and they make this affidavit, "I hereby swear that the value of my personal property, exclusive of bank stock, exceeds" so much, one dollar, \$100, or nothing, or whatever amount they want to correct it to.

Senator FASSETT.—The form of that affidavit is in that book?

The WITNESS.—Yes, sir.

Mr. IVINS.—The form is here [referring to book].

Q. Now, in the case of estates, how do you proceed to determine the value of the personal property held in the estate? A. Well, we generally get the gross sum sworn to by the guardian or the trustee or the executor in the surrogate's office, and then, under a personal examination made of those parties, we deduct the non-taxable securities from those that are liable to taxation, and in some cases hold him for the balance, and in other cases take into consideration those who are dependent upon the income; we have no right to do it, but we have done it; we have had cases where there would be, perhaps, the income on \$20,000 that was to go to the support of a widow and three children; I have always maintained that, although the law did not give us the right to do it, to assess that at the full sum of \$20,000 would be wrong, and I have advocated a reduction.

Senator FASSETT.—That is in view of the fact that so many people apparently escape from a fair assessment?

The WITNESS.—These people have no power to escape.

Senator FASSETT.—Their property is right where you can see it?

The WITNESS.—Yes, sir.

Q. Let us take an individual case; do you remember the estate of Moses Taylor? A. Yes, sir.

Q. Tell us what was done in the case of the estate of Moses Taylor; in the first place, will you tell us what the records of the surrogate's office showed the estate to be worth? A. The records of the surrogate's office showed the estate to be worth something over \$20,000,000.

Q. Over \$20,000,000? A. Yes; over \$20,000,000.

Q. That is the personal property in the estate? A. That is the personal property in the estate.

Q. That did not include the realty at all that you are referring to now? A. No; the personal property; I was not a tax commissioner at that time, but Mr. Tenure, who represented them, and Mr. Pine



both very reputable gentlemen, called at the office, and after consultation with Mr. Donnelly fixed the sum —

Q. Mr. Donnelly being a commissioner at that time? A. Mr. Donnelly being a commissioner at that time— fixed the sum —

Q. At what? A. At \$4,000,000; do not misunderstand me, that the \$20,000,000 was liable to taxation; the personal property consisted of over \$20,000,000, but out of that \$20,000,000 there were the common stocks of corporations, such as the Consolidated Gas, and the Delaware, Lackawanna & Western, and their stocks —

Q. Are not those stocks liable to taxation? A. Not to the individual; so that when the deductions were taken out from the Moses Taylor estate, I hardly think, from what examinations that have been made since, the entire estate that would be liable to taxation would exceed over \$8,000,000.

Senator FASSETT.— Would there be \$8,000,000 left?

The WITNESS.— I hardly think there would be \$8,000,000, from what I understood from Mr. Pine since, and Mr. Pine would not misrepresent anything, not to save taxes or anything else; he is a first-class man.

Q. Do you remember the case of the Vanderbilt estate? A. Yes, sir.

Q. So far as ascertainable, what did the records of the personal property show that estate to be worth? A. There was no record showing anything there, but from the best information that we could get, we found that the personal property consisted, including government bonds held by the estate of Vanderbilt, of \$36,000,000, or nearly \$40,000,000.

Q. As nearly as you could get at it? A. Yes, sir.

Q. What steps were taken to get at it? A. Mr. Depew called at the office, because it was just previous to the opening of the books; Mr. Vanderbilt has paid —

Q. That is in January? A. No; in December.

Q. In December? A. Yes; it was about the first of December; Mr. Vanderbilt had always paid on \$500,000 when he was alive; alone, individually.

Q. That is Mr. William H. Vanderbilt? A. William H. Vanderbilt, individually.

Q. And this particular estate was the estate of William H. Vanderbilt? A. Yes, sir.

Q. That was the estate which you found after his death; as far as ascertainable, nearly \$40,000,000? A. Nearly \$40,000,000 of personal property; but do not understand me as saying that the \$40,000,000 was liable.

Q. I understand? A. We sent for Mr. Depew and had a consultation; Mr. Fietner, Mr. Donnelly and myself; Mr. Depew urged, on account of the short time that there was before the opening of the books, to have a fixed sum against the estate, and proposed to pay on \$4,000,000; it was \$4,000,000, I think; after consulting for a day or two, he informed us that if we attempted to press them too hard, he would take proceedings by which most of the securities would be placed beyond our reach, so that we could not tax them.

Q. Was that equivalent to a threat to avoid taxation? A. That was not equivalent to a threat to avoid taxation at all, except that it was proper for him to advise the executor, as his counsel, and he certainly would so advise them; it was nothing but what other people are doing all the time.

Q. And the assumption is that he had a perfect right to take that position under the law? A. Oh, yes; under the law.

Q. Now, under what particular section of the law would it have been possible for that to have been done? A. They could, in the twenty-five or thirty days which they had, convert everything that they had into non-taxable securities, such as New York Central, government, city bonds, Delaware and Lackawanna, and Lackawanna and Western stocks, that did not change at that time nor fluctuate any more than governments, and not pay a dollar, provided they wished to do so.

Q. Under what provision of law are the securities of the New York Central railroad and the Delaware and Lackawanna exempted from taxation in the hands of an individual in this State? A. Bonds are not.

Senator FASSETT.—Bonds are not.

Q. You say the stocks are? A. They pay from the capital stock; they are assessed; they pay on the capital stock at the principal office.

Q. The corporation does? A. Yes, sir.

Q. Which being paid, exempts the stockholders? A. Certainly; they can not tax it twice.

Q. So that all that was necessary for Mr. Depew to have done under those circumstances was to have converted that \$40,000,000 into securities of that particular class? A. Yes, sir.

Senator FASSETT.—That is the practice with the stock of every corporation that pays a corporation tax?

The WITNESS.—Yes, sir.

Q. Now, let us take this for the purpose of getting at the legislative aspects of it; if Mr. Depew had converted those securities into Illinois Central, for instance, then would those stocks, the Illinois Central stocks, so held by the estate, have been taxable here? A. No, sir.

Q. They would not? A. They would not.

Q. Under what provision of law is that? A. Common stock of any corporation held in the hands of any individual don't hold the individual at all.

Q. Even though it is a foreign corporation? A. It makes no difference.

Q. And, even though as a corporation, it does not pay taxes in its own State? A. That is not our business.

Q. I know it is not your business. A. We have no power at all over the New York Central; they are an Albany corporation.

Q. The New York Central is an Albany corporation? A. The New York Central is an Albany corporation.

Q. The New York Central pays its taxes in Albany? A. If it pays any at all.

Senator FASSETT.—I want to ask Mr. Coleman whether it is the fact that common stock of corporations is not liable in the hands of people in this State; whether that is a matter of practice?

The WITNESS.—It is a matter of law.

By Senator McNAUGHTON:

Q. Has there been a decision on that point? A. I can not call to mind any decision, but I think the decision would be guided by the custom we follow out.

Q. You haven't any in your mind; any decision? A. No, sir.

Q. Of course there is no provision of the statute exempting it? A. Well, I will perhaps show it to you.

By Mr. IVINS:

Q. Can you give me a reference to the law which exempts the shareholders of domestic corporations from the payment of any taxes on their shares? A. They are taxed in the particular office where they are established; the capital stock is taxed there as capital stock.

Q. Do you now recall under the law of what year that is? A. No; I do not.

Senator FASSETT.—Of the Corporation Tax Law, I think it was in 1882.

The WITNESS.—That is the Consolidated Act.

Q. Is it in the Corporation Tax Law? A. I could not tell you about that; it is in the Revised Statutes of 1882, I suppose; I was going to recommend to the committee here that in 1874—I brought a book over—the Committee on Ways and Means, composed of Batchelor, Prince, Brewer, Lincoln, Alvord, Weed, Beavy and Blumenthal, went into the matter of personal taxes, and Mr. Andrews, at that time, was a tax commissioner; he appeared before them, and

from his remarks this little pamphlet was made up [referring to pamphlet]; you might make examinations of nearly all the officials of New York, and you would get as much information from all the officials of New York as you would from this pamphlet; in that you will find just exactly the condition we are in.

Q. That pamphlet contains a list of the different methods by which personal property escapes taxation legally, does it not? A. Yes, sir; and although I begged him at the time — he was one of the best men in New York, as far as an official was concerned — I begged him not to expose our method; but still there were law firms that took it up and made from \$50,000 to \$75,000 a year getting hold of people who had always paid their taxes in ignorance of what the law really was on the subject.

Mr. IVINS [reading from pamphlet].—By the Act of Congress, passed June 30, 1864, United States bonds, United States coupons, national currency, United States notes, treasury notes, fractional notes, checks for money of authorized officers of the United States, certificates of the United States, certificates of deposit of the United States, and all other representative of value of whatever denomination which have been or may be issued under act of Congress are exempted from taxation as personal property. That is under chapter 406 of the Laws of 1853; metal, bullion or coin in the possession, custody or control of the United States Assay Office, are exempted. By the Supreme Court of the United States in the case of *Austin v. Low* (13 Wallace, 29). Imported merchandise in original packages, in the hands of the importer is exempted. By the decision of the New York Court of Appeals in the case of *Hoyt v. Commissioners of Taxes* (23 N. Y. 224), goods and chattels owned by residents of this State, but having a situs out of this State, are exempted. So that if I possess goods and chattels, for instance, at Saratoga, or in Boston or in Philadelphia, they are not taxable in this State as against me.

Q. Now, let us get at that accurately; goods and chattels owned by residents of this State, but having a situs outside of the State are not taxable in this State for purposes of State taxation; now, how is it in regard to taxation for local purposes of goods and chattels owned by me, but having a situs outside of the locality? A. Outside of the State we do not tax them.

Q. Outside of the locality? A. What do you mean by locality?

Q. For purposes of taxation? A. What do you mean by locality; if they are in the State, we tax them.

Q. If they are in the State, you tax them for purposes of local taxation? A. Oh, yes.



Mr. IVINS.—By the Laws of 1851, chapter 176, section 2, property having a situs in this city, but owned elsewhere in this State —

The WITNESS.—That is where we suffer.

Q. That is just the question I asked you? A. No, no; you just reversed it.

Senator FASSETT.—That is right, you just reversed it.

Q. Then it appears that a man living in New York city, but having property in another part of the State has to pay taxes in New York city on property held outside of the city? A. Yes, sir.

Q. But a man living in Saratoga but having property in New York city is not taxed for local purposes in New York city? A. No.

Q. And in Saratoga how much is he taxed? A. He is taxed provided it is known; let me say in relation to what we have now in New York; I dare say that there is at least annually stored in New York below Grand street no less than \$6,000,000 to \$8,000,000 of personal property, goods exposed for sale, stored away, held there in bondage, manufactured out of the State, held for sale, protected by our laws, where the city is responsible in case of any damage by riot, and still we can not touch it.

Senator McNAUGHTON.—Describe the property more definitely?

The WITNESS.—Well, manufactured goods mostly.

Q. Imported merchandise, for instance, in original packages? A. That we can not touch; a great deal of this is held by people surrounding us, living in Brooklyn, Jersey, Westchester, doing business in New York city; commuters, etc., coming in.

Q. A great deal of it comes in under the head of property in transitu? A. In transit; yes.

Q. Now, go back to the last decision of the New York Supreme Court, 51 Barbour, page 352: "Personal property in a foreign State, when securities for such investment are in the hands of a non-resident agent, escape taxation;" just is what is covered by that? A. You would have to go over in the office and look over the different blanks.

Q. What sort of property?

Senator FASSETT.—Railroad bonds?

The WITNESS.—No. Take for instance foreign life insurance, non-residents held by agents here.

Mr. IVINS.—I don't understand that.

Senator FASSETT.—How do you mean foreign life insurance; the policy is not taxable?

The WITNESS.—No; but at the same time they are doing business here. Their business is in the hands of agents here. It is foreign capital.

Senator McNAUGHTON.—Aren't they taxed?

The WITNESS.—No, sir.

By Senator FASSETT:

Q. Only life insurance companies are taxed? A. I am speaking of fire insurance.

Q. Oh, you are speaking of fire insurance? A. Yes.

By Mr. IVINS:

Q. The decision in the case of Parker Mills v. Commissioners of Taxes (23 N. Y. 242) — A. I have tried three or four times to have it reversed.

Q. [Continuing.] Is to the effect that property in transitu, goods of non-resident owners sent here for sale, without the reinvestment of the proceeds here, escape taxation? A. Yes; we had a case I think last year or the year before last; I had it taken to the Court of Appeals in regard to a jeweller in Newark who kept continuously in the safe there property insured for \$25,000 — \$25,000 insurance on his stock; it was a continuous business; under the law we could tax it, but they claimed exemption under the Parker Mills decision; the first time that came before the department two of the commissioners were in favor of not holding them; I voted against it; last year I prevailed upon the commissioners to bring it before the Court of Appeals to try and have it reversed, but the Court of Appeals still decided against us; that is only one of the thousands of cases of manufacturers surrounding us here; we are protecting their goods and they have all the benefits of New York without paying any taxes.

Q. Under the Laws of 1857, chapter 456, it is provided that the deposits in savings banks and the accumulations of life insurance companies shall also escape taxation; has the law been amended since this law has been made? A. In one case it has.

Q. Affecting particularly deposits in savings banks and the accumulations of life insurance companies, I mean? A. I forget what year the law had been amended, but it has been my policy that where I strike a mechanic, or a poor women, or a family who have a few hundred dollars in a savings bank, I never attempt to tax it; if I find a capitalist who has distributed his money in savings banks so that he can call upon them any time, then I hold him to the full limit of the law.

Q. Are these all of the methods at present prevailing for escaping taxation of personal property by provision of law? A. Read that [producing book].

Q. This is a statement prepared by Mr. Andrews also at that time?

A. It was not prepared he spoke it right off; there was no preparation at all; I was with him.

Q. Made by him? A. Yes, sir.

Mr. IVINS —[reading]. "The inequalities and incongruities may be very well illustrated by a series of contracts, as follows: A has \$100,000 of imported goods, and is exempt; B has \$100,000 of miscellaneous goods and is taxed; C has \$100,000 of goods consigned and is exempt; D has \$100,000 of goods owned and is taxed; E has \$100,000 of goods manufactured in New Jersey and is exempt; F has \$100,000 of goods manufactured in the city and is taxed; G has \$100,000 of goods for which he borrowed capital, on United States bonds, and is exempt; H has \$100,000 of goods which he sold United States bonds to pay for, and is taxed; I has \$100,000 in ships plying from this port, but registered in Boston, and is exempt; J has \$100,000 in ships plying in the Pacific, but registered here, and is taxed; K has \$100,000 in mortgages on New Jersey property, interest paid in Jersey City, and mortgages deposited there, and is exempt; L has \$100,000 in mortgages on city property, and is taxed; M has \$100,000 in money in his pocket and is exempt; N has \$100,000 in money in bank, and is taxed; O has \$100,000 in certificates of deposit in subtreasury, and is exempt; P has \$100,000 in certificates of deposit in bank, and is taxed; Q has \$100,000 specie in the assay office, and is exempt; R has \$100,000 specie in his safe, and is taxed; S has \$100,000 check on the United States treasury, and is exempt; T has \$100,000 check on bank, and is taxed; U has \$100,000 treasury notes, and is exempt; V has \$100,000 promissary notes, and is taxed; W has \$100,000 of United States bonds, and is exempt; X has \$100,000 of State or city bonds, and is taxed; Y has \$100,000 in certificates of indebtedness of United States, and is exempt; Z has \$100,000 in certificates of indebtedness of a corporation, and is taxed."

Q. Are these all the processes, so far as you know, by which a person can now legally escape the payment of taxes on his personal property? A. Well, they are about all.

Q. Now, what was about the application of one or another or all of these processes, plus the latter process of escaping taxation on ownership of shares in domestic corporations, or other corporations that Mr. Depew might have deprived the city of in taxes on that \$40,000,000?

A. He had time to do it.

Q. Even if he had not time given by you, he would have had time to provide for it in next year's tax? A. We have a great many cases of that kind where we have got people and could not compromise

with them, and we made them pay perhaps the average that we knew was being paid by other people throughout the city, and they would say that they would pay it this year, but that would be the last time that we would be able to catch them.

Senator McNAUGHTON.—Mr. Ivins calls them processes; are they based upon decisions?

The WITNESS.—There is the general law.

Mr. IVINS.—In each case the reference made by Mr. Andrews was to a specific legislative rule or to an interpretation of some law by either the Court of Appeals or the Supreme Court of the United States, the State or the United States.

Senator McNAUGHTON.—Is it a provision of the statute that makes those exemptions?

The WITNESS. — Yes; there was the case of Babbitt against the Tax Department in 1807; Mr. Babbitt was a soap manufacturer who came here, and he established a soap factory in Greenwich and Washington street; we taxed him for \$50,000, and he appeared before Mr. Andrews, and he told Mr. Andrews that he came to New York with \$250,000 of government bonds, went to the bank and borrowed \$250,000 on it, and then started his business; he did it for the purpose of avoiding taxation and did not intend to pay any personal tax; it was such a bold statement that Mr. Andrews thought he would make it public, and he took the case to the Court of Appeals, and the Court of Appeals sustained Mr. Babbitt, and from that time Mr. Babbitt's success had been phenomenal.

Q. What did you compromise with Mr. Depew on the Vanderbilt estate for? A. Well, after we had consulted for some time, we fixed the sum of \$8,000,000 against the estate, with the provision that we would tax each one of the heirs a certain sum.

By Senator FASSETT:

Q. Was that specified? A. This was specified, and Mr. Depew promised, that is, took and put a reasonable figure on it—he did not consent to the \$8,000,000—that he would guarantee that no effort would be made to deprive the city of a fair sum each and every year for several years to come; the estate has been partly divided since, and the Vanderbilts now pay on the estate; together with the heirs, the sum of about \$11,000,000 to \$12,000,000.

Q. That is in addition to what they pay on real estate? A. That is in addition to what they pay on real estate; that is taking the Sheppard's and all the boys and all the different connections, you know.



Q. In addition to these that you call legal methods, are there not certain subterfuges that are resorted to for escaping taxation? A. No; only in this way, that a great many of them come to us, and we do not listen to them unless they are prepared to defend themselves, and then we will fight them in the courts in some cases, and it would cost them more than what the taxes amount to, and they generally pay.

By Mr. IVINS:

Q. I find Cornelius Vanderbilt president—this being simply the column to indicate the business of the party—Grand Central depot is taxed \$200,000? A. That he found fault with; last year we raised him \$100,000.

Q. That \$200,000 is all Mr. Vanderbilt pays taxes on, so far as Cornelius Vanderbilt's estate is concerned? A. His own personal property; he pays his share on the \$8,000,000 on his estate.

Q. Do you know whether there has ever been a partition of that estate? A. I do not think there has been a partition; I think a part of it is held in trust and part has been divided.

Q. Is there any means of discovering what part has been divided? A. No; they have not made a record in the surrogate's office so far.

Q. Suppose that one-half has been divided, then in order to recover taxes on that now, you would have to follow it into the hands of the individuals? A. We would have to follow that into the hands of the individuals; that would be against the interest of the city to follow them up in that way.

Q. Why do you think it would be against the interests of the city? A. If we found that perhaps the interests were divided and we were obliged then by law to follow Mr. Cornelius Vanderbilt up, he has got two residences, one in Newport and one in New York; we have lost a great many old New Yorkers by their shifting their residence to Newport, and now our object is to try and hold what we can.

Senator FASSETT.—That is to say, Mr. Coleman wants to keep them here by accepting what these people are willing to pay, rather than try to force them?

The WITNESS.—A. A fair sum.

Q. You would rather accept that than force them into exile by insisting on their paying the full amount and thus driving them to Newport?

The WITNESS.—A. Yes, sir.

Q. These people who have so gone to Newport and deprived New York city of taxes are usually classed among the better class, are they not? A. Yes, sir; they are rich people, of course.

Senator FASSETT.—They have real estate here mostly?

The WITNESS.—A. They have.

Q. And that, of course, they can not escape? A. And they are living off of the rents from their real estate, and a great many of them are large property owners.

Q. A man with personal property of \$8,000 or \$10,000 on which he pays taxes stops here and pays his taxes? A. Yes, sir; it falls on the poor people and the ignorant people as a usual thing.

Senator McNAUGHTON.—And widows and orphans?

The WITNESS.—And widows and orphans.

Senator FASSETT.—And the banks?

The WITNESS.—The banks are gradually getting in under it pretty well.

By Mr. IVINS:

Q. Those that are rich enough and those that are shrewd enough can escape? A. Oh, yes; they are getting enlightened under the law every year, that no one need pay taxes at all, personal taxes.

Q. The estate of Vanderbilt is taxed at \$8,000,000; I find that Frederick W. Vanderbilt is taxed at \$100,000, George W. Vanderbilt is taxed at \$100,000, Maria L. Vanderbilt is taxed at \$200,000, William K. Vanderbilt is taxed at \$200,000; that makes so far as the Vanderbilt name itself is concerned a tax on \$8,800,000 all included? A. Then you must go into the Parmalies, Webb, Sheppard, and all the others, which runs up to about \$11,000,000 all together.

Q. Including all the connections? A. All the connections.

Q. And that includes the entire connections not only of the heirs of William H., but also the heirs of Cornelius Vanderbilt, does it not? A. It perambulates right through.

By Senator FASSETT:

Q. It makes about one-twenty-fifth of all the personalty paid on in New York city? A. No; I think these figure up one-thirteenth, pretty near.

Q. Oh, yes; it would be about one-thirteenth of the resident personalty that is paid on? A. Yes, sir.

By Mr. IVINS:

Q. So that the Vanderbilts pay one-thirteenth of all the taxes paid on resident personal property? A. About that.

Q. And still, nevertheless, it is a fact, is it not, that this is a tremendous underestimate of the aggregate wealth of the Vanderbilt family? A. That is, of the wealth, but you must not say wealth in regards to taxation.

Q. I do not say taxable wealth. A. No; but it is under the wealth, of course; but then you must blame the government and the State laws as to that; don't blame the city.

Q. On, no; not at all; it is the system we are now looking at.

Senator FASSETT.— We are trying to find out the fact, without reference to blaming anyone; see if it is possible or expedient to make a change.

The WITNESS.— You couldn't, you know, without interfering with the United States government.

Q. The fundamental theory of the law, Mr. Coleman, is this, that all citizens should contribute justly and equitably and in proportion to their wealth and the benefits received by them from the community, for the sustenance and for the maintenance of the government; now, is there any better illustration of the fact that the laws do not conform to that theory, than the very case which we have taken?

A. Yes; you will find more outrageous cases than that, a great deal.

Q. Tell me some of them? A. Well, it would be almost impossible, because I think that in proportion to what would be liable there under the laws, that the Vanderbilts done very well, indeed.

Q. What does Mr. Gould pay, personal taxes? A. I think he pays on half a million, but he has two residences; you must remember, one in Tarrytown and one in New York.

Q. What is the estate of Helen Gould? A. We didn't find much in Mr. Gould's wife's estate that was liable to personal taxes; I think the sum was about 250,000 to 300,000 that she was liable for; a majority of the stock that was held by her estate, by the executors of her estate, was common stock of corporations, such as Mr. Gould was interested in, and the bonds amounted to about 250,000 to 300,000.

By Senator McNAUGHTON:

Q. Did you ever inquire what Mr. Gould was assessed for at Tarrytown? A. He is assessed for a very small sum there.

Senator McNAUGHTON.— Merely nominal sum.

By Mr. IVINS:

Q. Jay Gould is assessed for \$500,000 here? A. Gould and Daniel S. Miller, as executors and trustees under the will of Helen D. Gould, is assessed for 200,000; yes.

Q. And George J. Gould is assessed for 10,000? A. Yes.

Q. And that is the entire assessment? A. On the Gould family.

Q. On the Gould family, for personal property, in this city? A. Yes, sir.

Q. Now, you say you know of other cases which illustrate more perfectly this — A. It would be well, in justice to those gentlemen, to explain each case, because you must remember that although Mr. Gould might be worth fifty millions of dollars, the corporations that he is interested in, such as the Western Union, Missouri Pacific and things of that kind, are all common stocks, held by individuals not taxable in the hands of an individual; they are taxable upon the capital stock.

By Senator FASSETT:

Q. They pay as companies from the company office? A. They pay as companies; yes, sir.

Q. The Western Union pays into your treasury, or into the treasury of the — A. The Western Union is under a different law; there they are taxed in each county they run through.

Q. But ordinarily they pay for their proportion of the whole stock in any given city? A. Yes, sir; but in regard to the Missouri Pacific and other corporations —

By Mr. IVINS:

Q. Is not the Missouri Pacific a New York corporation? A. No, sir

Q. Very well, now, we come back to the point of discovering what the exact provision of the law is which exempts the shares of a foreign corporation held by a resident of the city of New York from taxation for local purposes in the city of New York.

Senator FASSETT.— Is there any provision?

The WITNESS.— Certainly there is; you will find it; it is a double taxation, you know; that covers the case.

By Mr. IVINS:

Q. Is not that an assumption? A. It is double taxation.

By Senator FASSETT:

Q. It is an assumption, is it not, Mr. Coleman? A. I know, but at the same time there is no doubt in my mind; at the same time I am not prepared for the question, you know.

By Mr. IVINS:

Q. The question is whether there is any specific provision of law which exempts —

Senator FASSETT.— The witness says he couldn't put his hand on it.

The WITNESS.— No; I couldn't; but will hunt up —

Q. Do you feel confident that your attention has been called to such a provision? A. Oh, yes; oh, my, yes.



By Mr. IVINS:

Q. Now, take the case of banks? A. Yes, sir.

Q. Will you turn to your report and show what proportion of the taxes paid on personal property in this city is made up of taxes on bank stocks? A. It is a pity I lost that detailed statement; shareholders banks, 1890, \$69,509,282.

Q. Now, what proportion of the entire personal taxes is that? A. Well, that would be that proportion—

Senator FASSETT.— What is the whole amount?

The WITNESS.— About twenty-two and one-half per cent.

By Senator McNAUGHTON:

Q. Less than a quarter? A. Yes.

Mr. IVINS.— I find in Davies Compilation of Constitutional Provisions, statutes and cases relative to the system of taxation in this State, at page 71, section 7: "The owner or holder of stock in any incorporated company liable to taxation on its capital, shall not be taxed as an individual for such stock," and then this remark: "Shareholders of stock of corporations created under the laws of this State are not taxable in the hands of the stockholders, nor are shares of stock of corporations created by other States taxable, since the presumption is that they are taxed upon their capital in the home States; negotiable bonds, being evidence of a fixed indebtedness, are taxable at their actual value. (4 Hun, 595; 62 N. Y., 630.) Under the Laws of 1866, chapter 546, section 33, exempting the real and personal property of railroad corporations until a single track of said corporation shall be completed to return, held only for ten years, exempt only for ten years from the date of the statutes," etc.

Q. Now, will you describe the process which was employed for the purpose of determining the value of bank shares for the purpose of taxation? A. Under the law we are obliged to take from their records a full list of the shareholders of the bank; it would be far better, of course, as Mr. Andrews—you will find Mr. Andrews' pamphlet, twenty years ago, in recommending a change by which this specie of property could be taxed the same as other corporations, upon the capital stock, without going through all this detailed statement we are obliged to go through now; to prevent the bank—for the purpose of not being annoyed, generally give us a full statement of each and every shareholder, and those are compiled and computed by the secretary of the department; he makes an examination of the marketable value of the bank, their assets, conditions, and makes a statement by which he takes and taxes the real estate owned by the

bank, taxes the marketable value on it, and on that marketable value is carried out against each individual.

By Senator FASSETT:

Q. Does your board fix the marketable value of the stock? A. We leave that to the secretary in going over, and, of course, he is under these directions.

Q. I see your report shows, first, the ward in which the bank is located? A. Yes.

Q. Second, the number of shares? A. Yes.

Q. Third, the par value of shares? A. Yes.

Q. That is all easy to know; no difference of opinion there? A. No.

Q. Then the capital, which is also a matter on which there is no difference of opinion? A. No.

Q. Then the gross value per share? A. Yes.

Q. Who determines this gross value per share? A. We get that from their statement, and I couldn't explain that any better than by sending for any bank you would like to send for and bringing it right over here now; it is only a small book; the secretary can be subpoenaed at any time and will go through any bank and show you.

Q. All right; then this gross value is fixed upon by a mathematical operation? A. By information that we find, to a certain extent, that will warrant us in putting a sum onto it, and from that we take and deduct what they are not liable for.

Q. Do you take as an element in fixing this judgment, the sales of the stock? A. That is one of the elements sometimes; yes, sir.

Q. Then there is the gross value of the entire institution; that is all fixed— A. By the front page of the book.

Q. That would depend on the gross value per share? A. Yes, sir.

Q. Simply the number of shares multiplied by the gross value of a single share? A. Yes, sir; exactly.

Q. Interest in clearing-house; what is that? A. Each one has a certain interest in the clearing-house; the clearing-house pays separate; we deduct that.

Q. The real estate? A. The assessed value is deducted, under the twenty-third decision.

Q. That is the uniform practice all over the State? A. Uniform practice; yes, sir.

Q. Then the total real estate — A. That, of course, has nothing at all to do with it.

Q. There may be a little something outside, and that was all deducted? A. The assessed value; yes, sir.

Q. The assessed value per share; that is the value at which you agree to assess each share of stock? A. Each share of stock, each individual.

Q. Then here is the amount sworn off; that is sworn off by the individual stockholders? A. Yes, sir.

Q. Here is a column for "exempt;" now, what could be exempt? A. Well, if a stockholder comes in and says that he is — I guess that is a clerical error there, in regards to—

Q. Here seems to be a separate column; for instance, with reference to the American Exchange Bank, it is \$615,140 sworn off, 91,000 put down as exempt? A. Oh, let me look at this; yes; 91,000 exempt; property held in the hands of individuals not liable for taxation, which they swear off, their indebtedness and things of that kind, mortgages.

Q. What is the differentiating item between this and that; it is all sworn off, both those two items, are they not; it practically amounts to that? A. Yes, sir; but I wouldn't know without looking at the affidavit; you couldn't tell; I couldn't tell the specie of property.

Commissioner FEITNER.—There are certain charitable institutions that are entitled to the exemption from all personal property.

The WITNESS.—You can tell by the affidavit.

Q. If this stock, in other words, were held by institutions? A. Yes, sir; I had forgotten; we can tell by looking at the affidavit, and then you can tell what it is.

Q. Looking down the line here I notice the Chemical National; that bank has 3,000 shares, par value \$100 each, capital stock \$300,000; gross value per share \$1,769.36; the assessed value of that share — A. It would be better to have that record, then you could see right on the record each individual shareholder, how much he owns, how much he swore off.

Mr. IVINS.—We will send for a copy of that.

The WITNESS.—You can send for the Chemical Bank. It is a small book.

Q. Did not the last sale of that stock show it was worth four or five thousand dollars? A. It was over 4,000, but I think it was only a small parcel.

Q. They do not come on to the market very often, do they? A. No; very seldom, indeed.

Q. I notice that there still remains against that bank on the books of the receiver nearly \$5,000,000 on which they pay taxes? A. Yes, sir.

Q. Now, glancing down here is the First National bank? A. Yes.

Q. That stock is, the gross value per share is \$1,104.30? A. Yes.

Q. Its assessed value per share is \$1,004? A. Yes, sir.

Q. Of that nearly 5,000,000 is sworn off? A. Yes; that bank has not paid much personal tax.

Q. Leaving \$560,000 subject to taxation? A. It is rather a close corporation; it is held in the hands of a few individuals who have always taken advantage of the law — not taken advantage; I will not say that, but —

Mr. IVINS. — Aailed of ?

The WITNESS. — Yes; aailed themselves of the law and placed themselves in a position where they were able to take and reduce the tax to a very small sum.

Mr. IVINS. — Now, how can they accomplish that?

Q. Mr. Coleman, I was going to ask — A. They have created indebtedness there; last year I didn't take the statements last year because they came in the form of affidavits before the board; the year before that they were in condition to swear it all off, so they said when they came to the department; and I informed them that if such a thing was done, I certainly would call public attention to it, and then they agreed to pay upon a million dollars, I think, by consent, although they wasn't liable for it.

Q. Now, here are some banks that do not have any real estate; little banks, like the East Side, Empire State and the Equitable, that are assessed bang up, the gross value per share? A. Yes; well, they are all held and scattered around in the hands of people who do not take any advantage of their position they are in, and the bank pays on the capital stock and take it from their dividend when paid.

Q. Same thing with the Bank of Harlem, Bank of New Amsterdam? A. Yes; same way.

Q. They seem to pay right up? A. Yes, sir.

By Mr. IVINS:

Q. Then these small banks and the small holders in the small banks are among the class that you describe as being not either rich enough or shrewd enough to protect themselves? A. They don't seem to be, to take any advantage; if they are they seem to go on and pay the taxes.

By Senator FASSETT:

Q. I was going to ask you, in view of the fact of all these avenues of escape, how do you account for it that out of a back capital of nearly \$90,000,000, so much as \$69,000,000 pay taxation? A. A great deal of it is held by non-residents, and we put so many difficulties in



the way of non-residents coming here and swearing off and continuing to receive affidavits made out of the city not under personal examination, that we get a great deal more that way, chances are, than we would otherwise.

By Mr. IVINS:

Q. Is not this case of the taxation of bank shares, as well as the case of the taxation of personal property, illustrative, so far as this city is concerned, of the fact that the fewer hands, large capitals are aggregated in, the more likely those capitals are to escape taxation? A. I do not think that the decision in regards to allowing debts against bank stock should have been made; I think no off-sets for debts against bank stock should ever have been —

Q. You think men who own all the capital they have invested ought not to be allowed to do the banking business for the community? A. They ought to pay.

By Senator McNAUGHTON:

Q. They ought to be made to pay their debts out of the bank stock? A. That is what I say, not being exempt from taxation.

Senator McNAUGHTON.—And then get it in the hands of someone who would pay the taxes.

By Senator FASSETT:

Q. It seems the gross value invested in banks, according to your report, is \$126,020,202? A. That is gross.

Q. There is \$69,520,182; is that amount both personal and real? A. That is the amount of personal all together; the real is paid separate from that.

Q. Then so far as the bank personality is concerned, that is the proportion of which it pays? A. About sixty per cent.

Q. Yes, about sixty per cent; so that as far as it does pay, it pays at a less rate than your estimated rate of the real estate? A. After deducting the debts; that is where real estate don't have any chance of deducting the debts, mortgages, etc.

By Mr. IVINS:

Q. Do you understand the theory of the law to be that the same rate of valuation for the purposes of taxation shall apply to all classes of personality and all classes of realty alike? A. Well, I should judge that is the meaning of the law.

Q. That is the purpose of the law? A. Yes.

Q. Now, can you, as tax commissioner, called upon to execute the law, tell me what, in your judgment, this means; this is from section

312 of chapter 409 of the Laws of 1882, of the act revising the banking laws and laws relative to trust companies : "But in the assessment of said shares each stockholder shall be allowed all the deductions and exceptions allowed by law in assessing the value of other taxable property owned by individual citizens of this State; and the assessment and taxation shall not be at a greater rate than is made or assessed upon other moneyed capital in the hands of individual citizens of this State ;" what do you understand by that? A. Is that in the formation of trust companies?

Q. No ; that is a provision with regard to the taxation of stockholders in banks? A. Oh, in banks ; well, I suppose they meant for us to be equitable in regards to the assessment of real and personal property, so far as we know how to act.

Q. What do you understand by "other moneyed capital ;" do you understand that to mean other personal property? A. Personal property in the hands of individuals.

Q. Do you understand that there is any rule of difference between the basis of valuing of personal property and the basis of valuing real property? A. No sir.

Q. None at all ; there ought not to be? A. No sir.

Q. But, as matter of fact, for the protection of the interests of New York city against the possibilities of unequal assessments, or inequitable assessments in other parts of the State, it is a fact that New York city real estate is not assessed at more than eighty per cent of its market value? A. As a general thing we try to hold all the deputies upon a basis of equity ; they might perhaps may be differ in regards to the eighty or eighty-five or the ninety per cent of the ordinary market value; but the object of the office is, no matter what the basis is, that each and every individual shall pay his share, his fair proportion, towards the expenses of the city.

Q. That is, that all men in the city who own personal property or real property shall, so far as you are concerned, be compelled to pay equitably and ratably; that is your purpose? A. Where we can reach them, of property which is taxable.

Q. But it is, nevertheless, the fact, is it not, that these shall be shareholders in small banks —

Senator FASSETT.—In small banks.

By Mr. IVINS:

Q.—in small banks; pay on a larger basis because they pay on a hundred per cent, than the real estate owners pay? A. Well, I don't say a hundred per cent, because you will want to take a look at the records, for this reason; you might find that in making up the figures

there of these small banks that the secretary did allow in every case, perhaps may be, a percentage below what might be considered the marketable value, so as to try and put them on a fair basis with other property throughout the State; but I dare say that they pay a little higher, providing the thing is properly examined on the small banks.

By Senator FASSETT:

Q. The clearing-house banks seem to have better rates by this board than those who are not? A. Yes.

Q. Supposing the State laws were remedied so as to allow no deduction for debts owed by personal property; would that close up all the avenues of escape? A. Yes; but I would like to answer it this way—

Q. Answer it any way you please? A. You must be very careful; capital is very timid, and the position and the condition and location in which we lay here in New York, for a city or a home of capitalists, it wouldn't do to come down upon them hard and drive them to other parts and distribute them; they tried that in St. Louis; they tried it in Louisville; they tried it in San Francisco; and just as soon as they tried it, they drove their best people out of the State.

Q. San Francisco people drove the capitalists right east? A. Yes, sir; now, capital here is better protected, and we can protect it at a less rate than any other part of the world; we can invite capital here and can retain it, by having a tax law so we can protect everything, and it costs us money to do it; we can gather as much on our records that amount to as much as the real estate does, but we have got to touch it so light.

Q. How can you do that? A. That can be very easily done; a law can be framed not allowing any off-set for debts; of course, a law can be framed by which everything can be got; if our present tax laws were changed so that we could take and have a proper sum placed upon capital which would be invited here, that inside of five years there would be at least 250 to 500 capitalists living out of the State that would now come and build their dwellings and reside here.

Q. You think it is possible to so touch all the property, both real and personal, that the weight upon each dollar would be inconsiderable and yet so that the capitalists would not feel its oppression? A. No, sir.

Q. On the contrary, they would be attracted? A. They would be attracted by it; as it is now, it is almost impossible to think of the number of people—wealthy people—people who have their wills made, and the chances they take, that will go down every year, the first of December, and convert their taxable securities into non-taxable securities and hold them from twenty to thirty days, so that they can

make the affidavit, and change back again; that is done to the extent of hundreds of millions.

Q. Suppose we should shut up the avenues of escape now open by State laws, there would still remain the United States laws? A. That is getting less and narrower every day; the government bonds are being called in; they are scarce now, and those who hold them do not let go of them, so you would close up a great deal of the avenues of escape.

Mr. IVINS.—And they are mainly held by banks?

The WITNESS.—They are mainly held by corporations and banks.

Senator FASSETT.—On behalf of the committee, I would deem it a very great favor if you would, at some future day, propose to us a draft of a law.

The WITNESS.—I will do anything, go anywhere with you, work any hours; I will do anything at all that might try and help us in our present condition.

Senator FASSETT.—Because whatever would affect that reform in this city would affect it the same thing through the whole State.

The WITNESS.—Of course, it would reflect upon the State. We are living so near New Jersey, two cents to carry across, with the best of accommodations in the world; with half a dozen railroads tapping New Jersey, that this capital would fly very quickly provided you struck it very hard.

Senator FASSETT.—That is, if you put upon capital in the State of New York more pressure than exists upon capital in Ohio or Pennsylvania or the west, capital is going to move in that direction?

The WITNESS.—Certainly.

By Mr. IVINS:

Q. Our present system is virtually nothing more than a rough and ready way of catching what you can; is it not? A. It is trying to pump water into a barrel that the sides are so that you can see daylight through.

Senator McNAUGHTON.—And you allow fellows to take their gimlet out of their pocket and bore a hole in.

By Senator McNAUGHTON:

Q. Is there any reason why the laws in relation to assessment of real and personal property should be different in New York from what they are in Albany or Saratoga? A. Only the wording of the law there it is "due to a solvent debtor;" here "ordinary value."

Q. You are familiar with the report of the tax commission, somewhere in 1882; are you not?



Senator FASSETT.—Cornell's tax commission?

The WITNESS.—Oh, yes; I worked with them all the way through — Wilson H. Green, George H. Andrews — that was not the tax commission of 1882; that was the tax commission of 1878, but there was a tax commission of Evarts and —

Q. I mean the one of which John Van Wert— A. What was Evarts, Mr. Knickerbocker and Mr. Green; those people I didn't never get no report from them.

Q. They made reports? A. Yes, sir.

Q. And out of that grew this corporation tax? A. Yes; I know that.

Q. And the collateral inheritance tax and some other things; don't you think they did a good work? A. They didn't go far enough; they done good work towards the State but not towards the city of New York.

Q. What do you think of the proposition that a commission should be appointed, either by the Governor or — say by the Governor, to revise the whole system of taxation throughout the State? A. I think it would be a very good thing.

Q. Is not that the better way? A. The great trouble, Senator, is this; that if you select people you have got to select intelligent, progressive and prosperous people; and just as soon as you do that you always strike into something that they are interested into; there is a selfish interest crops out there; they don't want their specie of property touched very hard; I think the State Board of Assessors from their traveling around, see a great deal; they should have good experience, providing they are men who would grasp the thing and see the danger, troubles which we labor under here in New York, and if a commission was appointed of the State Board of Assessors and one or two men representing the tax office of different cities throughout the State, why, let them have a year to go over the matter thoroughly and carefully and report, I think it would do a great deal of good; you want practical people, who have seen the troubles which we labor under, more than you do those who think that they know it all.

Q. Right in that connection, you testified the other day, Mr. Coleman, that New York city had no representation in the Board of State Assessors? A. Well, Mr. Bogert is there, State Engineer.

Q. That the board of assessors — that is not the equalization? A. Oh, that is the equalization board; yes; no; we have not had since Mr. Lawrence, from '65.

Q. We had eight governors since then? A. Yes; don't blame New York for that.

Q. Are you aware of the fact that Governor Hill —

Mr. IVINS.— Don't blame New York for the Governors, do you?

The WITNESS.— No; don't blame New York for that.

Senator FASSETT.— I don't know; I think she has been very largely to blame.

By Senator McNAUGHTON:

Q. You have had a New York Governor from this city? A. Oh, yes; Mr. Cornell, Mr. Dix, Mr. Tilden.

Q. Were you aware that on the 17th of May, 1887, Governor Hill proposed the name of Charles F. Allen as State Assessor in the place of Mr. Staley F. Wood of Hinsdale? A. I don't remember whether it was in the place or not but I know Allen's name was proposed.

Q. Well, it was in the place? A. Yes.

Q. The other day you testified the Senate had no opportunity to confirm; if it was a fact that the Governor nominated and the Senate did not confirm, then you were in error, were you not? A. No; I didn't say that; I said, Senator, that those who were nominated and appointed by the Governor must be confirmed by the Senate.

Q. You put it stronger than that; I thought very likely you would be willing to correct that error? A. Yes — willing to correct anything.

Senator FASSETT.— I had in mind the State Board of Equalization.

Q. It came up in this way: "By Senator Fassett:— Who makes the appointment to that Board"; that is, the State Board of Assessors. "A. The Governor, and they are confirmed by you gentlemen. Q. We have not refused to confirm any appointment as to the State Assessors"; "No," your answer was; next, Senator Fassett asks: "We have not had any chance; are there any vacancies now? A. No. Q. Any holdovers? A. Yes, sir." Now, it is a fact that Allen's name was sent in by the Governor, and the Senate refused to confirm? A. Yes, sir.

Senator FASSETT.— I had forgotten about that.

Q. And at that very time Governor Hill sent a very strong message to the Senate complaining that he had sent in very many appointments, and they took no action upon them — hung them up, as the phrase was.

Mr. IVINS.— How many holdovers were there?

Senator FASSETT.— All holdovers — every one of them.

The WITNESS.— There was an effort to have two more, one from New York and one from Kings.

Q. Do you know Mr. Charles F. Allen? A. Only by reputation.

Q. He has since been appointed quarantine commissioner, has he not? A. Yes, sir.

Q. Fair, straightforward man? A. One of the members on the board knows him, and told me he was a very good man.

Q. That would give them one representative on the board of assessors? A. Yes, sir.

Q. How is the board of equalization made up? A. The one who confirms it, do you mean?

Q. No; what is it composed of? A. The board of equalization?

Q. Yes. A. I don't know, outside of the Board of State Assessors; they have to take and make up their table from the examinations they make.

Q. Of whom is it composed? A. The names, you mean?

Q. Yes; or the officers, State officers? A. Ellis, Williams and Wood.

Q. Those are State Assessors? A. Yes, sir.

Q. Now I refer to what is known as the State Board of Equalization?

A. They are the Governor — Lieutenant-Governor —

Q. You don't mean the Governor? A. No; Lieutenant-Governor, State Engineer, Comptroller, Secretary of State, State Treasurer and Speaker of the House.

Q. Now, there are more; suppose I read them from the Red Book.

A. Yes; I forget, perhaps.

Q. Now, it is important to have this appear: Lieutenant-Governor, Secretary of State, Comptroller, State Treasurer, Attorney-General, the State Engineer and Surveyor, Speaker of the Assembly, and the three State Assessors? A. Yes; of course.

Q. That makes a board of ten; that board has been in existence since 1859, I believe? A. Eighteen hundred and fifty-nine; yes, sir.

Q. Mr. Bogert, the State Engineer and Surveyor, is from your city? A. Yes, sir.

Q. Now, have you any reason to believe that a board can be constituted that would be fairer in equalizing assessments between the different counties in that State than that board? A. I hardly think that you can take and frame a law that would take more reputable people in and at the same time distribute representations throughout the different parts of the State; that is so.

Q. And discriminate between the counties? A. Well, that ought to be so but it has not been so, Senator.

Q. That is your conclusion, but can you recommend to this committee any suggestion that will constitute a board in different form, of different men that you think would be a fairer board than that, as now made up? A. I think by adding on one from New York proper would be a fairer board, so long as we pay forty—

Q. Why should you add on one from New York? A. Because we

pay forty-five per cent of the entire State expenses, and not only forty-five per cent, because I want you to understand that when you take up a budget of thirty-five or six millions, that is not all the money we are spending in New York ; we are spending nearly \$40,000,000.

Q. That is foreign to my inquiry. A. I ask you the reason why.

Q. Let me pursue that inquiry with one more question. A. Yes.

Q. If the city of New York does not pay in that forty-five per cent any more than she really ought to pay, then why are you entitled to a representative ? A. Because I think that in all cases where there is such a large portion, and where they are composed of people like New York—because the people of New York are not like the country people, Senator, with all due respect ; they are a more careless class of people for their own interests and they want some one all the time looking after their interests.

Q. Yes, this exhibition of the exemption of personal property shows New York is careless about personal matters. A. It shows we do the best we can under the law.

Q. They succeed, don't they ? A. They succeed in evading us, so far as that is concerned, but you must remember, Senator, that here in that little small book, I will show you that the personal property throughout the State between 1852 and 1873—ten years of the most prosperous times after the war, personal property throughout the State decreased \$18,000,000, while in New York—here were thirty-five counties throughout the State that in 1852 and 1873—and you know that between 1861 and 1873 was prosperous times, during the war, personal property decreased in those thirty-five counties \$18,000,000, while in New York it increased from \$98,000,000 to \$298,000,000.

By Mr. IVINS:

Q. Is not this a fact ; that in New York, in this city with a population of almost one-quarter of the entire population of the State, and paying taxes within almost one-half of the entire taxes of the State, we, nevertheless, have only one representative in a board of ten ? A. Well, and not a permanent one.

Q. So that the principal of representation and population and representation of the basis of taxation—neither principle is recognized in this law is it ? A. Neither one, neither one ; now in all matters appertaining to the legislation in regard to New York, although done in a fair way, still is rather against our interests ; you take our armories ; take the insane bill last year, that was passed, where Monroe, Kings and Erie was exempted — about our insane bill



there; you see here we are the dumping ground of the entire world, to a certain extent; here we have 2,000 acres of land covered by buildings, and the paupers and the business, still, for all that, we have to take, and out of the excise moneys alone, which we take and raise one million and a half, almost every year; when it comes to New York, it is divided into pensions and divided into private charities.

By Senator McNAUGHTON:

Q. That excise money is divided here, is it not? A. It is divided here; but why not go back to the treasury.

Q. What treasury? A. City treasury.

Q. It has the same effect, does it not; goes to charitable institutions? A. No; it has not, by no means; it goes to the pension funds.

Mr. IVINS.—If we get into that at this point, we will get away from our basis of taxation in the other department, and we have got to examine Mr. Coleman on the general work of the board of apportionment and estimate, as a member of that board, but I sought to take that up at another time.

By Mr. IVINS:

Q. Can you tell us, however, while speaking of this matter of taxation, what proportion of the school taxes New York city pays, and what proportion New York city pays of the aggregate amount raised for school taxes? A. We pay forty-three per cent of the entire educational system of the State, which cost us last year, I think, \$1,550,000, and we received back \$561,000; that is all.

Q. So that we support our own school system at a cost of between four and five millions a year, and also have to contribute to the support of the school system of the rest of the State about a million of dollars in excess of what we get from the rest of the State.

Senator FASSETT.—Certainly.

By Senator FASSETT:

Q. Mr. Coleman, does not any one rich man in any community really pay more for the support of the schools than his poor neighbors? A. In proportion to what he uses the schools for; yes.

Q. Does not New York city, being the richest part of the State, naturally have to pay more for everything, for all matters of State government? A. We are willing to do that, but not so much.

By Mr. IVINS:

Q. Is that because we ought to, or because we are not represented in the Legislature according to our population? A. Because we are compelled to by the table that is made up.

Senator McNAUGHTON.—That is what we need, is a re-apportionment.

Mr. IVINS.—Is that the answer to that?

The WITNESS.—Well, anything that will take and relieve us from a little of that.

Senator FASSETT.—Which the Legislature has twice given you an opportunity of having.

By Senator McNAUGHTON:

Q. Right in this connection I would like to call your attention to one little item; you know Hon. Roswell P. Flower, do you not? A. I know him when I see him, I think; I know very few politicians.

Q. You know of him; man of sound judgment; your representative in Congress, is he not, now, of the twelfth district? A. Yes, sir.

Q. I found in a newspaper this statement made by Flower, he says: "My district, the twelfth, is richer than any State in the Union except New York and Pennsylvania; it is richer than Massachusetts or Illinois, or Ohio, or California; the twelfth Congressional district extends from East Fortieth street to Eighty-sixth street, and from East river to Seventh avenue; in it live the Vanderbilts, the Rockefellers, Jay Gould, Russell Sage, D. O. Mills, and, in fact, almost all the very rich persons in the city except the Astors, who live in the eleventh Assembly district; the united possessions of the residents of the twelfth Congressional district must be more than \$4,000,000,000?" A. Yes; we always point with pride to the old nineteenth ward.

Q. "Illinois is only valued at about \$3,000,000,000, and Ohio and Massachusetts at a billion and a half;" now, have you any reason to doubt the correctness of that statement of Mr. Flower's? A. Well, I would have to take and go over it; I don't know; I don't believe in what Mr. Flower might take and say in relation to the wealth of men—

By Mr. IVINS:

Q. So far as that district is concerned, is it not a fact that so far as that district is concerned, if those figures be correct it shows a wealth in that district many times larger than the total assessed valuations for the purposes of taxation of the entire city? A. Yes.

Q. And of the entire State? A. I dare say that there is; I dare say that there is living in the nineteenth ward, in a small area there, a few of the richest men in the world; no doubt about that; there is no doubt about that, but don't blame those men, as long as the law allows them—

Senator McNAUGHTON.—I don't blame anybody. We are only now seeing if there is not some device by which property that now escapes

taxation can be put upon the assessment-roll and pay its just proportion of the taxes. That is what we are looking for.

The WITNESS.—That I help you to, sir; I will help you to do that.

By Mr. IVINS:

Q. Let us see whether this particular water front of the twenty-second ward pays its proportion of the taxes; we have the map here now; that is the Union Stock Yards Company's property at Thirtieth street? A. That is the twenty-second; we want Thirtieth street [referring to book]; I made the mistake; I was thinking about the upper stock yard.

Q. We will wait a minute while we finish that; now, Mr. Coleman, will you describe to the committee the constitution of the board of assessors and the relation of the board of assessors to the board of taxes and assessments? A. Under the law we are obliged to appoint those gentlemen; we have no option in the matter, one way or the other; there are to be four assessors; we make four assessors; after they are appointed they become a distinct body by themselves; we have no power over them whatsoever.

Q. You appoint them how long? A. Yes, sir.

Q. You say you are obliged to appoint them; you mean by the law? Senator FASSETT.—The law requires it?

The WITNESS.—The law requires it; yes.

Q. You have your own selection in making the appointment? A. We have the oral selection; yes, sir.

By Senator FASSETT:

Q. Does it have to be a unanimous vote? A. No, sir.

By Mr. IVINS:

Q. A majority vote appoints? A. Yes, sir.

Q. Are they removable at the pleasure of the board? A. I think they are, although they claim, under the Veteran Act that they are not; I don't know whether they are or not.

Q. The practice has been to remove them at your pleasure when any removals have had to be made? A. Yes, sir.

Q. Prior to the enactment of the law prohibiting the removal of veterans without cause, etc., in certain of the departments, there was no question whatever, was there, as to the power to remove? A. There was no question whatever.

Q. And now the only way in which the question would arise would be upon the point as to whether or not any particular assessor was a veteran soldier? A. Well, that would have to be decided in the

courts; I think that we have the right to take and remove them irrespective of that, I don't — under their appointments that we made the last time.

Q. Who are the assessors at present? A. Edward Gillon, Mr. Wendt, Mr. Haverty and Mr. Cale.

Q. When was Mr. Cale appointed? A. Mr. Cale was appointed about, I should think, three years ago.

Q. Three years ago? A. Between two and three years ago; yes sir.

Q. At whose request did you appoint Mr. Cale? A. I think Mr. Cale was appointed at — blest if I know whether — I think Mr. Grace spoke to me about it.

Q. Was not Mr. Cale appointed during Mr. Grace's term? A. No.

Q. Subsequently? A. Afterward.

Q. During Mr. Hewitt's term? A. Mr. Hewitt's term; yes.

Q. You think Mr. Grace spoke to you? A. I think Mr. Grace spoke to me.

Q. Is Mr. Cale a member of Tammany Hall? A. Yes, sir; from what I hear; I don't know.

Q. Was at one time a Tammany Hall leader, was he not? A. I don't know that.

Q. Did Mr. Cale, at the time of his appointment, so far as you knew, have any particular qualifications for the performance of the duties of an assessor? A. Nothing more than the average man would have in regard to having plain common sense and having experience and being a New Yorker; I had no other knowledge about the man except that; I wasn't very well acquainted with him except knowing him merely by sight for years and years.

Q. How long ago was Mr. Haverty appointed? A. Mr. Haverty was appointed in 1885.

Q. At whose request was he appointed? A. I think Mr. Haverty came with a petition signed by General Hancock, and also testimonials in regard to his qualifications and his loyalty during the war.

Q. Did he have any particular or peculiar qualifications for the performance of the duties of his office? A. Nothing except I found he had been a book publisher, a man of intelligence, a man calculated to take and figure out perhaps may be what would be necessary in that department, that is, it is merely a clerical department — mostly clerical.

Q. When was Mr. Wendt appointed? A. He came with recommendation from Artendorfer and Mr. Steinway and other gentlemen connected with the Liederkrantz society, as a man well qualified to take and fill the department; he has been accountant and we needed



someone over there to do part of the arithmetic that is necessary to carry out the assessment laws.

Q. Why did you need someone; were not the other assessors arithmetical assessors? A. Well, for several years they had allowed a number of assessments that had been ready to confirm, to stand in the desk, and the cry was by the comptroller's department that these should have been pushed through so that the city could receive back the money that they had already paid to the contractor; the city was losing that interest.

Q. What assessments are they? A. Oh, a large number of assessments amounting up into the millions.

Q. Was the Brook avenue sewer among them? A. No; the Fifth avenue sewer—

Q. Brook avenue. A. Brook avenue.

Q. Yes. A. The Brook avenue sewer was at that time laying in the office but since that time it has been revised, you know.

Q. Been revised; is it finished? A. I think now they say it is finished.

Q. Do you know whether the assessment for the Brook avenue sewer has actually been levied or not? A. I think they are through with that, very lately.

Q. Since we asked that question in the spring, is it not? A. Yes.

Q. Then this Brook avenue sewer assessment was one of those assessments which was in arrears at the time you put Mr. Wendt in there as an accountant? A. Well, part of it; part of it.

Q. Who was the other assessor? A. Wendt, Haverty, Gillon—

Q. Gillon. A. He was appointed in 1885.

Q. At whose request? A. I think that Mr. Grace appointed—that Mr. Grace asked me if I knew Gillon, and I knew him because he had been collector of assessments for a number of years and had been in the real estate business, and he told me that Mr. Voorhis would like to have Mr. Gillon appointed, and knowing him for a number of years as being a sober, industrious man, he was appointed.

Q. Do you hold yourself, as a commissioner of taxes, in any way responsible for the work of the assessors? A. Only to see that they do not delay anything, that is all.

Q. Are you responsible for their delays? A. No; we are not responsible, but at the same time that would be injurious to the city; if anything like that happened I certainly would see after it.

Q. What steps do you take to prevent delays? A. We have our reports from them.

Q. Anything more than their quarterly report? A. Not except to

talk to the secretary may be once every two weeks to find out what is going on and to see what is in their department or is coming in.

Q. Their reports come to you quarterly? A. Yes, sir.

Q. And on receipt of those reports, what course is pursued by your board? A. We take a memorandum of the different things that are — the number of assessments that have been introduced since the last report, and have it filed with the secretary, and then make a report to the mayor.

Q. Then what steps do you take to expedite the work which appears on those reports themselves to be in arrears? A. Nothing except it is to find that; we find out what is being held back, and find the reasons why it is held back.

Q. What does that particular board cost the city per annum, it and its subordinates? A. About fourteen or fifteen thousand dollars, and the rent and things of that kind.

Q. And the rent? A. Yes, sir.

Q. Could not all the work which is done by that board, be done equally well by a deputy tax commissioner appointed particularly for that service, and directly under the eye of the commissioners of taxes, as a part of the tax department of the city, such deputy tax commissioner having the additional clerical help that is necessary? A. If the law so ordered it, it could be done.

Q. Could it not be done if there were a law to that effect? A. Yes; I dare say that the work could be done a good deal cheaper than it is done now.

Q. Is there not, in your opinion, one of the departments or bureaus that could be dispensed with, and in dispensing with which and throwing those burdens on your department, proper facilities to your department, nevertheless, and economy, could be effected? A. They could, but there is the law, of course; we have to obey it.

Q. We are now talking about the possibility of economy through an amendment of the law. A. Yes; that is right.

Q. And, in your judgment, would it be desirable or possible to so amend the law as to have that work done by one single responsible person instead of by four persons, as it is at present? A. If it was my own private business I certainly would have an assessment all under one head, so that the maps and the surveyor and everything would be under one head, so that we could be responsible and meet the taxpayers would have business with that bureau.

Q. Is it not a fact that these four offices are generally regarded as being quite as nearly sinecures as any other offices in the city? A. Well, they have been regarded so; but I would like to tell the com-

mittee here that New York, as it was laid out years ago and the improvements that have been going on in New York for the last twenty years in regard to what the board of assessors are required to do, is very little in regard to what they will be required to do now as long as there is a new commissioner going to be elected in the twenty-third and twenty-fourth wards who will perhaps make rapid strides there in laying out streets, in looking after sewers, in looking after flagging and curbing and all those things, and the chances are that these men will have a great deal more to do; I don't say but what it could be done with all that, a great deal cheaper though.

By Senator FASSETT:

Q. With the utmost that there is any prospect of their doing it could be done a good deal more cheaply than under this system?

A. The chances are equal, yes; but here we have got a new territory now, and we have a great deal of work to do ahead there.

By Mr. IVINS:

Q. Don't you think it would be done more thoroughly, even?

A. I hardly think so; perhaps may be more thoroughly, because those men over there are fairly good men and the secretary over there is thoroughly competent; they are fairly good men; they are as good as the general average of men.

Q. As a matter of fact, the board of assessors, as it stands constituted to-day, is quite as intelligent and capable a board as we have got in the city government, isn't it? A. I should say for their work, perhaps they are.

By Senator FASSETT:

Q. It is not a question of personnel, is it?

By Mr. IVINS:

Q. It is not a personal question at all? A. No.

By Senator FASSETT:

Q. It is not substantially an extravagant department? A. No.

By Mr. IVINS:

Q. Isn't it a sort of fifth wheel to the coach? A. Yes; but it is only \$14,000 altogether.

By Senator FASSETT:

Q. It costs \$14,000 to do work that might be done for \$5,000? A. For about that.

By Mr. IVINS:

Q. How long did you say you had been in this department? A. Over twenty years.

Q. What were the relative functions and duties of the commissioners and the deputy commissioners prior to the law which constituted this board in 1872 or 1873, I think it was? A. In 1873.

Q. In 1873, and their present duties? A. Under the charter of 1869, there were four commissioners appointed, consisting of Nathaniel Sands, George H. Andrews, Thomas J. Cramer and William King.

Q. That is the commission of 1869? A. Yes.

Q. That was what was known at that time as the deal commission, wasn't it? A. Yes; that was the deal commission; but don't say deal when you put Mr. Andrew's name, because he was down south at that time sick, or with a sick son, and he knew nothing at all about it; he was in no deal whatever; he knew nothing at all about it until he was telegraphed about it and told that he was appointed.

Q. As a matter of fact, he was put in as the leaven to save the loaf, wasn't he? A. Well, he could save almost anything; he was a good man, no matter where he was put; in that department then, the commissioners got \$10,000 a year, the counsel, \$10,000.

Q. Who was counsel? A. Chester A. Arthur, and in the department at that time, the deputy got \$4,000 and the clerks \$3,000, and the entire pay-roll was about \$248,000; now it is \$104,000; that was twenty years ago, and that was before the annexation, of course.

Q. Was it ever required of the tax commissioners that they should, under oath, verify or certify to the assessments? A. No.

Q. Is there any reason why the tax commissioners should not certify to the assessments and made responsible for them?

Senator FASSETT.— Under oath?

The WITNESS.— Well, I think it would be almost impossible for any man to take an affidavit up of 175,000 pieces of property in New York that he had thoroughly each and every one and would know the market value thereof.

Q. Then assuming that to be the fact, this follows, does it not, that our deputy tax commissioners to-day are really, for the actual purposes of assessment and taxation, the tax commissioners of the city? A. Well, they are and they should be to a certain extent; if there is anything wrong, the commissioners have the power to correct it between the second Monday in January and the first of May, that is, so wrong that it would call public attention to anything; but where we had never for the past twenty odd years seen that, I don't see why we should take and change the law.



Q. They are the actual roots of the system, are they not? A. They are.

Q. And the whole system rests on them? A. Well, to a certain extent.

Q. And springs out of them? A. And springs out of them; but still they are under the control of the department.

Q. Are they so sufficiently under the control of the department for them to make erroneous assessments without being held strictly responsible? A. Oh, it is almost impossible for them to make what you might call erroneous assessments without their being held; it is almost impossible — what you might call erroneous assessments — we might differ in regard to assessments.

By Senator FASSETT:

Q. Supposing they were erroneous and wholly in favor of the property holder, then you wouldn't be apt to have your attention called to it, would you? A. Well, I don't know whether we would have our attention called to it; but at the same time the examinations that are made of these weekly reports, and from the knowledge that we possess, we would know it ourselves.

By Mr. IVINS:

Q. How much are these deputy tax commissioners paid? A. Seven hundred dollars.

Q. And they have the most important possible duties, haven't they? A. The most important in the city of New York; yes, sir.

Q. And are they not subjected peculiarly to temptation? A. I should think years ago that might have been asked; but lately I have not, for the last eight or ten years, except in one or two cases, heard anything in the shape of temptations being offered in regard to anybody connected with our department.

Q. Let us take a hypothetical case of this kind: suppose a corporation owns a new building, which it has just put up, and which has cost it anywhere from \$1,000,000 to \$3,000,000, the corporation has a deep interest in not being taxed for a higher amount than it can possibly avoid; is it not customary for these corporations or these owners of large buildings and large properties to put themselves into communication with the deputy tax commissioners in the first instance as touching the amount at which the tax commissioner is about to enter their properties on his field book? A. No; not now it is not; it was a few years ago the custom of a deputy that was located in the lower part of the city to call upon the different corporations and to put himself into communication with them; they didn't want to see him.

Q. But he did put himself in communication with them? A. He did.

Q. In the first instance? A. He did.

Q. Who was that deputy? A. He is dead now.

Senator FASSETT.— Never mind then.

Q. In your judgment is the salary paid to the deputy tax commissioner sufficient both to compensate him for the class of work which he has to do, to employ the best ability and the best capacity for doing the work, and to get a guarantee of honesty and fidelity in the performance of the work? A. I have always claimed that perhaps it was not; but you must remember that under the civil service law I always felt as if we would like to have control of the men under an examination which we were obliged to employ, and if we paid them \$3,000 or over we would lose control of them so that they wouldn't have to go through a civil service examination.

Q. Don't you think that you could establish a civil service examination of your own if the responsibility were on you, which would be quite as good as the examination under which you got Mr. Perry? A. It would perhaps be as well, perhaps may be better; I like to know myself whom I am going to hire or employ.

By Senator McNAUGHTON:

Q. Right in that connection, in what respect was the examination of Mr. Perry insufficient? A. I only say in general cases where we don't know the men.

Q. You knew Mr. Perry? A. He was in the office before.

Q. Wasn't his examination thorough? A. It was thought so by the civil service board; as far as the questions were concerned he was a man who had experienced before that time to answer those questions.

Q. And his answers were intelligent? A. Yes; he was intelligent.

By Mr. IVINS:

Q. If there had been no civil service intervention in that particular case, would you have sought around among a number of people for the purpose of picking out the fittest whom you could get for the salary? A. I suppose I would; I would feel as if I was responsible for it.

Q. Wouldn't you have felt that that was your duty? A. I have only made one appointment since I have been commissioner and I didn't do it out of politics.

Q. As it is you were forced to take the one man who was sent to you? A. That is the law.

Q. And for taking him you are in no sense responsible? A. Still if anyone had asked me in regard to Mr. Perry I couldn't have stated any objections to him from his experience in the office before.

Mr. IVINS.—This is not for the purpose of discriminating against Mr. Perry, it is for the purpose of considering the bearings of the civil service law upon this particular question; that is all.

By Senator McNAUGHTON:

Q. Were not there some circumstances surrounding the appointment of Perry that don't always occur—Mr. Martine had been stricken down by paralysis, and you testified that you required a man at once and made the application at once? A. Yes, sir; it was in the fall while he was going through his district one day, they were marching up Broadway in the Old Guard, and he was stricken down with paralysis, and we didn't have any time, so we applied at once.

Q. And the appointment had to be made at once? A. And they sent us down that man in a few days.

Q. That accounts for the haste with which that appointment was made, does it not? A. I suppose so.

By Mr. IVINS:

Q. But for all that you don't mean to testify that you find anything in exculpation of the civil service people for not having seen to it that more applications were put in? A. I didn't have anything at all to do with them; I didn't go into their method of doing business at all.

By Senator McNAUGHTON:

Q. Why did you need a man right off at that time? A. Because the law says that we shall go on and make assessments after the first Monday in September and complete our assessments the second Monday in January; Mr. Martine had five wards, and this was after the work had been commenced; we sent up to the hospital and found out that they couldn't give us any reasonable date by which he could come out, and it devolved upon the commissioners to go on and make this assessment, so we had to have a man to do it.

Q. You had to have a man at once? A. We had to have a man at once.

By Mr. IVINS:

Q. From whom shall we inquire to discover what proportion of the assessments levied by the board of assessors are set aside on application to the courts? A. The comptroller and the corporation counsel, both would be the proper people, although I dare say that if you

subpoena Mr. Jasper, of the board of assessors, the chances are that he has a record of all of them.

Q. Mr. Jasper is the secretary of that board? A. Yes, sir.

Q. You are a member of the board of estimate and apportionment?

A. Yes, sir.

Q. Who were members of the board of estimate and apportionment who made the estimates and appropriations for the year 1889? A. There was Mayor Grant and the comptroller, and the president of the board of aldermen, Mr. Arnold and myself.

Q. No; for the year 1889? A. For 1889; that was Mayor Hewitt, the comptroller, Mr. Meyers, and the president of the board of aldermen, Mr. Beekman and myself.

By Senator FASSETT:

Q. That was in 1888 — that is in 1888 you prepared it? A. We made it in 1889, for 1890.

Q. And you made it in 1888, for 1889? A. In 1888, for 1899.

By Mr. IVINS:

Q. The board of estimate and apportionment for the year 1888, consisting of Mr. Hewitt, yourself, Mr. Beekman and Mr. Meyers made the appropriations for the year 1889? A. Yes.

Q. And the present administration of the city government was in no sense responsible for those appropriations? A. No.

Q. Directly or indirectly? A. Well, you say the present city government?

Q. I say the present administration — that is the present board of estimate and apportionment? A. Well, we are to a certain extent, those succeeding members; we are to a certain extent still.

Q. Mayor Grant was not responsible for it in any sense? A. No; nor Mr. Arnold.

By Senator FASSETT:

Q. Mr. Meyer and yourself were? A. Yes.

By Mr. IVINS:

Q. The tax rate of 1889 as incident to the estimates and appropriations by the board of 1888, was 1.95? A. Yes.

Q. That is the lowest tax rate that the city has had in many years, is it not? A. Oh, long before 1864, I think it was.

Q. And neither Mr. Grant nor Mr. Arnold took any part in making that tax rate, did they? A. No; they were not members of the board.

Q. They took no part in making it whatever? A. No.



Q. But inherited a low tax rate for the first year of that administration? A. Well, yes.

Q. Is not that the fact? A. Well, it was made 1.95.

Q. They did, however, take part in making the tax rate for the current year, which is 1.97? A. That is correct.

Q. Now, although there is an increase of two points in that rate, is it not a fact that the increase in expenditures for the year 1890, over the year 1889, is between four and five millions of dollars? A. That is if you were to take and include what I am afraid we will have to include, it would amount to that sum.

Q. The actual expenditure for the city government? A. Yes; still you must remember that what we did we did for a good purpose, in relation to deducting what the State tax does, because the decision of the referee in relation to the question of New York being overtaxed for 1887, the decision of Referee Countryman was, that as long as we had collected the money, to take and pay the sum fixed against us by the State from the people of New York, we should pay it, and the only way that we felt that we might get justice done would be to take and deduct that amount.

By Senator FASSETT:

Q. And not collect it? A. And not collect it.

By Senator McNAUGHTON:

Q. Right in that connection, explain fully that whole transaction; explain fully what there is about it, so that there may be no misunderstanding? A. What is it that you want.

Q. You say something was deducted? A. Yes.

Q. That you thought you ought not to pay? A. Yes.

Q. Why was that? A. Because the decision that had been rendered by the referee in the case of 1887, was that as long as we had collected the sum taxed against the city for State purposes, we had no right to withhold it, and it should be paid over.

Q. What was that amount? A. It was nearly \$1,600,000.

Q. That came from the act of the Board of Equalization in throwing upon your city an amount that you thought was disproportionate? A. Yes.

Q. That comes back to my former inquiry; the equalization of taxes between the different counties is made by the State Board of Equalization? A. Yes.

Q. Made up of ten members, of which you have one, and the others are State officers? A. Yes.

Q. Can you suggest now, after consideration, any fairer board, or a way of making up a board better or fairer for the whole State, than that board is now made up? A. I wouldn't want, from my experience, from what I have seen in Albany for the last twenty years, in relation to following a matter up about State taxes, to say here what I have seen in relation to what the State Board of Equalization does in regard to using the power that they have about making the examination of that table made by the State Board of Assessors; I have never seen the table of the State Board of Assessors; I have never seen it changed after it was printed, and it has never been presented until it has been printed to the State Board of Equalization.

By Senator FASSETT:

Q. You mean that the board never acts? A. The board never acts; they always confirm; they have not changed.

By Senator McNAUGHTON:

Q. You mean that the Board of Equalization adopts the suggestion of the State Board of Assessors — that is what you mean? A. Yes.

Q. The duty of the State Assessors is once in two years to visit personally every county in the State? A. Yes.

Q. To examine, under oath, supervisors, assessors and men whom they consider intelligent men, in regard to county affairs? A. Yes.

Q. And to report to this Board of Equalization? A. Yes.

Q. And then they act upon it? A. Yes.

Q. The result of that action is, that the board, as a board, hold their sessions in executive session? A. Yes.

Q. And you are not informed as to what proceedings take place in that session, are you, except when you see the table come out and see the table of changes made in different counties? A. Yes.

Q. Is it not the fact that that board each year takes from several counties and throw on to several counties a tax? A. They have always distributed it.

Q. They deduct from one county and virtually that adds to another? A. Yes.

Q. Have you any reason to believe that that board has now made up or as it has been made up for ten years past, would have any object or reason other than to do what was precisely fair between those counties? A. I wouldn't like to answer that question.

Q. What objection have you to answering it? A. I wouldn't want to answer it.

Q. Does not that go to the very foundation of this inquiry here? A. I wouldn't want to answer that.

By Senator FASSETT:

Q. If you have any reason to think that they have not been fair, I think it is perfectly proper to state it? A. I feel this way, that as long as it is the duty of the State Board of Assessors to go and make these examinations, that what takes up perhaps may be an entire year of the closest work of forty men; can't be done in a couple of hours, the same as they have done it for the city of New York.

By Senator McNAUGHTON:

Q. That is not just? A. Why?

Q. The work of the State Board of Equalization may be done within two hours? A. I am talking about the State Board of Assessors.

Q. But the work of the State Board of Assessors occupies weeks and months during the whole year? A. I have never seen it that way, although I have offered my services year after year to go with them to visit all different places throughout the city, to open every record in our department, they have never accepted my services, and I certainly know that they have not made a minute examination of our records and the details of our office.

Q. I want to call your attention to the report of the State Assessors for the year 1889; the assessors, each of them are under oath and make their reports under oath? A. Yes, sir.

Q. This is found at page 17 and is in connection with their report of the different counties; I refer now also to page 9 of their report; at page 9 of their report I read: "The complaints against the equalization of New York county as made by the State Board of Equalization, continue, though to a less extent than formerly; it is unnecessary to say to citizens who are competent to judge of the facts, without prejudice, that these complaints are utterly without foundation, and in nearly every case are made by newspaper writers who have but a superficial knowledge of the subject they undertake to discuss, by persons who confound the county and State tax, and presume that the State Board of Equalization is altogether responsible, and by persons desiring to advance their political or private interests. A careful comparison of the sales made at the real estate exchange for any late year, many thousands in number, and of the vast number of private sales, with the assessed value, will not show an average assessment of fifty per cent, and still we have taken into consideration the fact, that a considerable portion of the realty which has not been sold or exchanged for several years is assessed at a slightly higher rate, and, giving the county the benefit of every doubt, we have found that the county is assessed at an average of sixty per cent of its full value, and

that this is a fair and absolutely just conclusion can be clearly demonstrated to any who will give the question that unprejudicial and thorough examination which the question demands;" have you any reason to doubt that that statement is exactly true? A. I have.

Q. State your foundation for it? A. Because I know from experience and I know from personal knowledge that the real estate offered at the exchange, perhaps, may be, seventy per cent, might be bona fide sales — there is not over seventy per cent — and I dare say that if we were to find out the record of the different auctioneers who sold the property and find out the purchasers of it, we would find a higher basis than thirty per cent which were either bought in or put up to be knocked down for the purposes of finding some person who would take and gather it in at a price which they sell it for; and not those sales alone even; I will take those sales and go through the records with those men, which I offered to do, and I will tell them and show them there that their statement there as regard to fifty per cent was wrong.

Q. Will you furnish the committee the information which you offered to the State Board of Assessors? A. I have not got a record of what I sent them; I sent them about 800 pieces scattered throughout the city of New York showing the basis of assessment between sixty-eight and ninety per cent, and I didn't confine it to any one ward; I took different streets in any ward.

Q. The State Assessors at page 18 say: "We have during the last summer devoted some six weeks to a thorough and complete investigation of values in that county," meaning New York? A. Yes, sir.

Q. "To the end that we might change our former basis upon a thorough revision of our work should the facts warrant; we have tabulated a vast number of sales made at the Real Estate Exchange and by individuals aggregating many millions of dollars; we have consulted many managers of large estates, lawyers, bankers, real estate dealers, corporations and individual owners and experts in real estate, and all the evidence establishes beyond controversy that the realty of the county of New York is not assessed upon an average at more than sixty per cent of its actual value; in fact the most competent and reliable real estate experts outside of the commissioner of taxes and assessments do not claim that it is assessed at a higher rate;" you see they except your board from that statement; now have you any reason to doubt the absolute truthfulness of that statement? A. I have.

Q. Give us your reason? A. Because they gave us the names of certain men in regard to their experience as experts who had been



called on behalf of people who wanted to sell the city property and who in every case gave twenty to twenty-five per cent or forty per cent above what the city paid for it, and the city certainly paid full value for everything; I know nearly all the experts in the city of New York; I am thoroughly acquainted with them and they know me and I know the managers of all the large estates and nearly all the managers of all corporations and I volunteered to go with those gentlemen before they published that and I asked them to let me accompany them and said I wouldn't say a word except to ask proper questions before them; I was perfectly willing to stay one week, one month or three months with them night and day; they didn't accept my service; but all the testimony that they did receive was of men in different places throughout the city whose names they refused to give except in a few cases, and from that testimony they got this statement, and in every case I offered to prove that the statement before it was published was wrong.

Q. Will you furnish the committee with the evidence that you proposed to submit to the State Assessors? A. I didn't propose to submit anything any more.

Q. Will you furnish it to this committee? A. Yes; I will try and and furnish you with anything you want.

Q. We want that. A. What is it you want now—in relation to sales to the city?

Q. We want what you proposed to furnish to the Board of State Assessors? A. We did furnish them some time ago; but I didn't proposed to furnish them anything more because I felt it was useless.

Q. Here is a Board of State Assessors selected from different parts of the State who are sworn to do their duty; they make a full report; they state that the basis of their report is by a personal examination and an exhaustive examination, and they make that statement. A. You must remember that it is pretty hard for those gentlemen, although they might be disposed to act fair with New York, it is pretty hard for them to come down; when New York was not protected in any way at all we were paying fifty-one per cent of the entire State tax, and it went on without a protest for years and years; when Mr. Andrews took that matter up in 1871, and pleaded with the State Board of Equalization for justice, he did get a little off; but it was slowly going down and going down; New York should never have been over forty per cent instead of fifty per cent; but we were on a high basis, and certainly the State is not getting poorer and New York richer all the time.

By Mr. IVINS:

Q. The Senator calls your attention to the statement of the State Assessors: "We have during the last summer devoted some six weeks

to a thorough and complete investigation of values in that county ?'

A. I didn't see them six hours.

Q. Did they devote six days to it? A. I don't know; they might have devoted six months; I don't say that they didn't.

Q. Did they in your office devote any time to it? A. They did come in there for a couple of hours, a couple of days there, when I thought, may be they were going to go through my records, and I was ready for them.

Q. They say they have "tabulated a vast number of sales made at the real estate exchange and by individuals aggregating many millions of dollars; we have consulted many managers of large estates, lawyers, bankers, real estate dealers, corporations, and individual owners and experts in real estate, and all the evidence establishes, beyond controversy, that the realty of New York is not assessed upon an average of more than sixty per cent of its actual value," etc.; did they at any time, themselves or by their agents or servants, come into your department and compare the specific values, as shown by transactions on the real estate exchange, with the assessments as made on your books for particular pieces of property? A. They did have several memorandums of very important pieces of property that rather startled the community as to the prices at which they were bought or paid for; I mean they took exceptional cases in every case.

Q. With what thoroughness did they do that? A. They asked me about it and I told them where there were corners to be filled out by corporations who didn't stop at any price.

Q. Did they take 100 pieces that had been sold at the real estate exchange and compare those 100 pieces with the assessments as made on your books in the tax department? A. No; they generally ask about very important pieces of property like the Astor House, and things like that, that were a standing mark all the time for people to look at and see.

Q. Then there was no investigation and examination of the figures on your books, compared with the sales at the real estate exchange, so far as you know, to indicate any thoroughness on your part? A. Except the few pieces they asked me about.

By Senator McNAUGHTON:

Q. They could obtain the same information from the receiver of taxes, couldn't they, that they could from your office? A. No; not the same; they could find the names and the amounts.

Q. And the property? A. They couldn't find the sizes, the area, and things of that kind.

Q. They could find the amount for which each piece of property was assessed, could they not? A. Not each piece, because sometimes there is an amount that probably covers several lots as one piece.

By Mr. IVINS:

Q. Isn't it the fact for this reason, that on the books of the tax receiver, the taxes appear as on plots, which plots may be anywhere from one to twenty lots? A. Yes, sir.

Q. Or may be anywhere from one to ten buildings? A. You can get the area.

Q. A whole plot? A. Yes, sir.

Q. But sales of real estate in New York city, particularly of improved property, are made per lot and not per plot, as the plot appears on the tax book? A. That is in some cases — a plot or lot, it does not make much difference; but at the same time you couldn't get from the receiver's office the information you could from our office any way at all.

Q. Are not the values as they appear in the records of the real estate exchange usually applied to specific lots, buildings and corners? A. Yes, sir; but they give the area.

Q. But that area may be included in a very much larger area? A. Yes, sir; two or three ward numbers or a half a dozen.

Q. How many plots for purposes of taxation have we got in New York city? A. We have quite a number; I wouldn't want to say.

Q. It is about 70,000 plots for purposes of taxation, isn't it? A. Ward numbers you mean?

Q. Yes? A. Oh, more than that.

By Senator FASSETT:

Q. One hundred and sixty-five thousand, isn't it? A. It was 159,000 two years ago, and I think we go on pretty near from a two to a five per cent basis every year.

Q. That is not one-half of the actual city lots that there are in New York city? A. Oh, no.

Q. Is it one-quarter? A. Yes; I should judge it is one-quarter.

Q. Then the number of plots for the purposes of taxation is only about one-quarter of the number of city lots in the city? A. That has to be subdivided yet.

Q. And it is just because of that divergence, that difference, that the comparison couldn't be made by going to the tax receiver's books, isn't it? A. It couldn't be made.

Q. And your books are the only books on which it could be made? A. The only books in the city of New York.

Q. And if they said they did it thoroughly and they went to the tax receiver's books, the fact that they went there on its face shows that they didn't do it thoroughly? A. The parties connected with the receiver's office must come to our office for that kind of information themselves.

By Senator McNAUGHTON:

Q. Do you know of your own knowledge what work the State Assessors did when they visited your city? A. I couldn't swear to that.

Q. You have been swearing to it? A. No; I say what they did in our office.

Mr. IVINS.—He has been stating what they did not do.

Q. They say that they were here six weeks? A. Yes; they might have been.

Q. And they devoted that time to an investigation of the city of New York? A. They might have.

Q. You don't know of any reason why that statement is not precisely true, do you know? A. I don't know in regard to the time they spent here; no.

Q. That is what they say; but as to their method of finding it out that you don't know anything about? A. They only told me that.

Q. They make their reports to that effect? A. Yes.

By Mr. IVINS:

Q. They say here "These complaints come mainly from persons who we know have not given the subject such investigation as would warrant their criticism of the action of the State Board of Equalization;" is it not a fact that those complaints have come from the city of New York as a corporation, and upon those complaints of the city of New York as a corporation, litigations have ensued? A. Certainly.

Q. Then that statement which I have read there is not correct, is it? A. No.

Senator McNAUGHTON.—I wouldn't go as far as that. The complaints of the citizens of New York —

Mr. IVINS.—No; they come from the corporation and they have taken the form of litigation.

Senator McNAUGHTON.—They may have no knowledge of values in the country. Now, if the city of New York is assessed too much or too little in order to determine that you have to have a comparison with values in other counties and they have no knowledge of those values.



Mr. IVINS.—That may excuse the assessors for something else but not for this statement. They say: "These complaints come mainly from persons whom we know have not given the subject such investigation as would warrant their criticism of the action of the State Board of Equalization." Now, who is warranted in criticising if the great corporation, the mayor, aldermen and commonalty of the city of New York is not warranted in making it?

Senator FASSETT.—Mr. Ivins I don't think that suggestion is up to your usual logic.

Mr. IVINS.—Do you want somebody who lives in Onondaga to criticise values in New York city?

Senator McNAUGHTON.—I want somebody who is familiar with values throughout the entire State; and the Board of Assessors acquire that knowledge by the investigation of property and the examination of supervisors and assessors and others and looking into the property themselves, and from that they are able to pronounce upon this question while your citizens of New York, looking at it from their own pedestal, are not.

Mr. IVINS.—Their pedestal is very high; it is higher than any other in the State.

Senator McNAUGHTON.—If Mr. Coleman is correct, one ward ought to be able to pay it.

The WITNESS.—We are not able to reach that property.

Mr. IVINS.—The theory is, that inasmuch as the law exempts certain laws from taxation and the bulk of property exempt from taxation happens to be in New York city, by process of equalization the exempt property shall be brought back within the taxable domain.

Senator McNAUGHTON.—No; that is not a proper statement.

Senator FASSETT.—I don't think this committee is the place to fight out this quarrel, but I must protest against the arguing of this case here. It is not the place to do it. The fact is that the State Board of Equalization have not made an unfair or improper statement. The report says: "These complaints come mainly from persons whom we know have not given the subject such investigation as would warrant their criticism." They don't say that no complaints have come from any person who is qualified to judge. On the other hand, on Mr. Coleman's own statement that each parcel of property in this city was assessed upon a basis of equality with every other parcel of property in the city, there should be no such thing as exceptional cases, and any number, or half a dozen cases taken ought to be a just basis of judgment as to the way in which this board has done its work.

Mr. IVINS.—That is perfectly true.

Senator FASSETT.—So that if they have taken a dozen cases or a hundred cases only out of the 165,000, on Mr. Coleman's own testimony, they would be justified in reaching whatever would be shown by those dozen cases.

The WITNESS.—If they were ordinary cases.

Senator FASSETT.—Another thing appears and that is this, that even after the Board of Equalization have finished their work and put the burden on the city, still the amount of property assessed up against the city of New York is less than the tabulations than the board of tax assessors themselves show, should be placed against the city; so I don't know that the Board of Equalization has done any special damage to the city of New York. But this is not the place to try that question.

Mr. IVINS.—Certainly, these questions have a most direct bearing.

Senator FASSETT.—I think it is hardly in order.

Mr. IVINS.—It is part of the cost of the city government, and if we have to put in our tax levy each year more than we ought to put in, which goes to the debit of the city of New York none the less in its accounts for this purpose, it seems to me this is a proper part of this inquiry.

Senator FASSETT.—Certainly.

Mr. IVINS.—The inquiry seems to be closed, however. We diverted from our main line here when we asked about these tax rates.

Senator McNAUGHTON.—Not exactly from the main line, because my inquiry is this, is the city of New York to arrogate to itself the right to judge and to say that New York will not stand that and we ought not to pay it.

Senator FASSETT.—That has been tried before a Court of Appeals.

The WITNESS.—That one case has, of course, and we are going to try the other the same way.

By Senator McNAUGHTON:

Q. The other case relates to Governor Hill, does it not? A. That is another matter; that has been decided against us so far.

Q. The \$850,000? A. Yes.

Q. Will you tell how it comes that the city can take that course and justify herself? A. We feel as if the supply bill passed by the House, and the sums stricken out by the Governor, that the total sum was not required for State purposes, and we took our percentage of the bills that had been passed and signed by the Governor and appropriated that amount for it, and of course that left us with a credit of eight hundred dollars and odd thousand dollars; of course we didn't think we ought to pay that to the State because there was no necessity for it.

Q. The other counties in the State paid their proportion to that tax? A. I know they did ; yes, sir.

Q. Perhaps you may suggest something that will remedy that ; isn't this the course of procedure that the Legislature meets in January and sits through January, February, March and April and so on? A. Yes, sir.

Q. And each day or each week as the case may be certain appropriation bills are passed to meet the State taxes? Yes, sir.

Q. Now in May usually the Legislature adjourns? A. Yes, sir.

Q. Is it not under the law the duty of the Legislature to fix the percentage of the State taxation? A. Yes, sir.

Q. That is fixed in this way, is it not ; they obtain from the Comptroller this information, how much money he has on hand applicable to State taxes? A. Yes, sir.

Q. And what will be the probable receipts from the collateral inheritance tax and from the corporation tax? A. Yes, sir; and everything else.

Q. From all sources? A. Yes, sir.

Q. What cash he has on hand applicable to State taxes? A. Yes, sir.

Q. Those are added together? A. Yes, sir.

Q. Then they take the bills which have been passed the Legislature and have been approved by the Governor in which appropriations are contained? A. Yes, sir.

Q. Then the Comptroller takes which has been passed by the Legislature and which have not yet been approved by the Governor and he assumes they will be approved and he adds those altogether? A. And makes up a basis.

Q. And deducts the amount that will probably come into his hands? A. Yes.

Q. And the balance is the amount on which they fix the fraction of State tax? A. Yes.

Q. In this instance Governor Hill vetoed amounts to nearly \$2,000,000? A. Not quite.

Q. One million seven hundred thousand dollars, I think it was? A. Yes, sir.

Q. You assumed here that as he has vetoed those amounts they were not required to be raised for State purposes? A. Yes.

Q. And your argument is, "we ought not to assess upon our citizens an amount that is not required for State purposes? A. That is it exactly.

Q. But the other counties in the State paid it all? A. Yes.

By Mr. IVINS:

Q. Didn't they get it back? A. No; they want to have a bill drawn up for that purpose.

Senator McNAUGHTON.— That leads to this inquiry, would it not be well for the law to be so changed that the amount of that assessment for State purposes should not be made up until after the thirty days had expired in which the Governor should approve or disapprove bills?

Senator FASSETT.— You can't do that; the Legislature have got to fix that.

Senator McNAUGHTON.— I know they have; but couldn't that power be delegated to the Comptroller?

The WITNESS.— We wouldn't have time to put it in the budget.

Senator FASSETT.— It is not for Mr. Coleman to answer that question. It is a constitutional question.

Senator McNAUGHTON.— Then here you meet the objection every year that if the Governor vetoes a large amount of bills, then every tax officer has to raise a large amount of money that he ought not to raise.

The WITNESS.— We won't have that next year, for we will have a surplus next year.

Senator McNAUGHTON.— But the taxpayer who pays the taxes this year may not be a taxpayer next year.

The WITNESS.— Yes, sir; that is so.

By Senator McNAUGHTON:

Q. That is an injustice and sometimes it is a great injustice? A. Yes, sir.

Q. This comes down to a practical statement; the city of New York pays to the State, or her taxpayers do, by the courts' decision \$800,000? A. We don't know whether we will or not.

Q. But up to the present time? A. Up to the present time.

Q. The other counties have contributed to the State \$800,000? A. Yes, sir; and I recommended to the corporation counsel to draw up the bill for the State to pay back the amount of those appropriations, but the corporation counsel thought the State Legislature wouldn't do it.

Senator FASSETT.— You can't equalize all the inequalities of taxation.

Senator McNAUGHTON.— But that is a great amount.

Senator FASSETT.— It is in the aggregate a large amount but in the distribution it is a very small matter; it will cost more to remedy it than to meet it.



Senator McNAUGHTON.— It is a very large sum, \$800,00 0.

Senator FASSETT.—It is in the aggregate, but as distributed to the individual it is a very light matter.

By Mr. IVINS:

Q. We have a tax rate of 1.95 for the year 1889, being the first year of Mayor Grant's term? A. Yes, sir.

Q. Which, however, was made by Mr. Hewitt? A. Yes, sir.

Q. And the board of estimate and apportionment as then constituted? A. Yes, sir.

Q. Under the law is it not a fact that the board of estimate and apportionment has to conclude its estimates on the thirty-first of December of each year? A. On or before the thirty-first.

Q. Is there any practical reason why that date should not be thrown forward until the first of February, so that in each case each mayor would be a party to the budget which is to be used during the years that he is responsible for the city government? A. You could take and change it; I don't think it would be to the detriment of the city to have that change.

By Senator FASSETT:

Q. Would that be any advantage? A. There might be an advantage in this way, sometimes there would be an advantage and sometimes a disadvantage; it is altogether owing to the man who has control.

By Mr. IVINS:

Q. Isn't it the fact that an outgoing mayor making an estimate for an incoming mayor might see fit to cripple the city government? A. As a matter of equity perhaps may be it ought to be the first of February, but it altogether depends upon whom we have in that board.

Q. But as fixing responsibility and at the same time having the taxpayers themselves understand who is responsible for the rate, is it not in your judgment better that each administration should be a party to the rate for which it either has the credit or the discredit? A. Then the people could just take and hold the board as constituted at the commencement of the year responsible for it.

Q. Do you think that it is fair that a man should be called upon to act as mayor of this city and find after his election as mayor that, through partisan or other motives, the outgoing board of estimate and apportionment have not given him and his departments sufficient money with which to administer the city fairly or creditably, but for which failure of administration he would nevertheless be held responsible?

A. In a case of that kind, or in all cases, no doubt if he showed the Legislature of New York that he was maliciously crippled, the Legislature would come to his aid by allowing him to issue bonds.

Q. Do you not think it would be decidedly the better if the date for closing the budget were made the first of February instead of the first of January? A. It would do no harm whatever.

Q. And it might do much good? A. It might do much good.

Adjourned to Tuesday, October twenty-first, 10.30 A. M.

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NEW YORK, *October 21, 1890.*

Present—Senators Fassett and McNaughton.

THOMAS L. FEITNER, called as a witness, being duly sworn, testified as follows:

By Mr. IVINS:

Q. Mr. Feitner, how long have you been a tax commissioner? A. About seven years.

Q. And by whom were you appointed? A. When was I appointed?

Q. By whom? A. Mayor Edson.

Q. What is the term of your office? A. Six years.

Q. Your term has expired? A. It did expire.

Q. Were you re-appointed? A. I was.

Q. By Mayor Grant? A. By Mayor Grant.

Q. Did you hear the testimony of Commissioner Coleman before this committee? A. A considerable part of it; I was not here all the time.

Q. You heard the testimony of the commissioner with regard to certain pieces of property, did you, that is certain property of the Astors in One Hundred and Twenty-ninth street and One Hundred and Thirtieth street, and on Thirty-third street? A. Yes, sir.

Q. And relative to the house known as the Kernochen House, and the property known as the Cram House in Thirty-eighth street, and the Sloane House in Thirty-eighth street, the Eno property and the property of the Reform Club on the corner of Twenty-eighth street and Fifth avenue? A. Yes, sir.

Q. And the White, Howard & Company property on Madison avenue and Thirty-fourth street? A. I do not remember specifically everything that you relate here; some of them I do.

Q. Did you directly or indirectly at any time have your attention called to the assessment of those particular pieces of property? A. I do not remember that I have had.

Q. How is your attention called to assessments when made? A. Well, through the reports of the deputies between September and January, and by complaints between January and April.

Q. What do you do with the reports? A. I go over them, compare some valuations, especially whenever there is a raise or a decrease.

Q. Do the reports show that there has been a decrease or increase? A. Yes.

Q. What is the basis of your comparison; you say you compare valuations? A. Well, the sales and situation, what knowledge I may possess of rental values in that neighborhood.

Q. Well, do you do that thoroughly or in a casual way? A. Well, it is more of a casual way.

Q. These reports during the time that they are coming in, that is from about this time of year until the end of December— A. Excuse me, so far as a casual way being in connection with the reports on the complaints.

Q. I mean in connection with the reports? A. On the complaints the board acts together.

Q. But your supervision through reports is more casual than deliberate? A. Yes, sir.

Q. There are upwards of 200,000 parcels, as I understood— between 175,000 and 200,000 parcels? A. One hundred and sixty-five thousand.

Senator FASSETT.— Between 165,000 and 166,000.

The WITNESS.— About that; yes, sir.

Q. If these reports were all made with thoroughness and regularity, and the commissioners examined each report and each parcel as reported, with thoroughness and regularity, the commissioners would thus have brought to their attention and actual supervision the entire work of the assessment of the 165 parcels, would they not? A. They could if they had the time to do that.

Q. As a matter of fact you do not have the time to do it, do you? A. No; sir.

Q. It would be absolutely impossible for you to do it, would it not? A. Yes, sir.

Q. You would have to work all day and possibly some part of the night during this particular part of the year? A. Yes; I think so.

Q. Your system then, so far as reports are concerned, is one which makes that thorough supervision of the work of the deputy tax commissioners as assessors practically impossible? A. I do not quite understand your question.

Q. Your system then, so far as your reports are concerned is one which makes that thorough supervision of the work of the deputy tax

commissioners as assessors practically impossible? A. In so far as a personal examination of every building is concerned; yes.

Q. Furthermore, that system of supervision, through examining the reports, involves a knowledge on your part, sitting in your office, of each particular piece of property and the building that is on it and the character of the building and all? A. Yes; we have information in the office that warrants us in judging the general condition through reports of the building department and maps of fire insurance — fire insurance maps, which indicate the size, and indicate the height and indicate the length and breadth of a building and so on.

Q. At the same time, if you take each report and then take each plot on each report and study it in detail, comparing the values placed on that plot with the values on neighboring plots and then refer to the insurance maps, you three commissioners would be doing a volume of work during three month of the year which it takes your entire staff of twelve deputies the major part of the year to do? A. Yes, sir, with a personal investigation and examination.

Q. On its face it is apparent that those reports only serve tentative purposes? A. That is about it.

Q. And that unless in looking over those reports your attention is called to some particular piece of property which strikes your eye or awakes something in your memory, you pass it over? A. Yes, sir.

Q. Now how much time each day from now until the first of December, has it been your custom to devote to looking over these reports, the reports themselves I mean now? A. Well, I could not tell you exactly.

Q. An hour a day? A. Yes; at least that, off and on.

Q. An hour off and on? A. Yes.

Q. An hour every day? A. I think it would average at least that.

Q. Well, you have twelve reports each day, do you not, one from each deputy? A. No; reports come in about once a week.

Senator FASSETT.—Have you arranged by the way, to get one of those field books here; they are locked up and in charge of the deputy.

Mr. IVINS.—I will send for one.

Q. In this casual and rather haphazard way then, you supervised the work of the deputies though the examination of their reports? A. Yes.

Q. Now you have referred to another way, that is through complaints? A. I want to say right here that under a resolution that was passed by the board when Mr. Coleman was chief of the department —



Q. Do you mean chief deputy? A. Chief deputy — we requested that the chief deputy should perform considerable of that work and make reports to the board each week.

Q. Well, is that resolution still in force? A. That was done up to the time that Mr. Coleman became president of the board; not in writing but verbally, as to whether any complaints or irregularities, or matters of that kind occurred.

Q. By that you mean that Mr. Coleman as chief deputy used to report verbally irregularities and anything that came to his notice? A. Yes; since that time off and on Mr. Bell has made some reports in addition to what we may do individually.

Q. Oral reports or written reports, so far as Mr. Bell is concerned? A. I think some may have been written and some oral, that was the special duty of the deputy when Mr. Coleman was deputy for the two years that I was there.

Q. In addition to this matter of reports you have complaints? A. Yes.

Q. Now tell us what course is pursued by you as one of the commissioners as a member of the board and by the board when complaints are made? A. Complaints are not generally filed until near the end of the time, which is the thirtieth of April; our very busy season, in relation to personal property, runs along from January to April.

Q. I do not mean complaints on personal property, complaints on realty? A. I understand, therefore we have not much time to consider realty during the months of January, February, March and April, for the reason that complaints in the first place are not filed until near the thirtieth of April; during May the law gives us power to consider these matters, and the board generally sits from day to day going over the complaints that are made, sometimes having the deputy commissioner in the board with them to consider the matter and make what suggestions he may deem fit, and to answer questions of the commissioners, and in that way we consider the valuations and the complaints that are made and render our decision.

Q. Well, do you render your decision acting as a board, or does one commissioner decide and then seek the concurrence of some other commissioner who is present?

Senator FASSETT.— This is after the books are open to the public, is it?

The WITNESS.— In May the books are closed, but after the books have been opened.

Q. This is after the books have been opened? A. Yes.

Senator FASSETT.— That is, the books are closed the first week in April, are they not?

The WITNESS.— The thirtieth of April.

Q. Do you render your decision acting as a board, or does one commissioner decide and then seek the concurrence of some other commissioner who is present? A. We have acted as a board generally.

Q. You keep minutes of those particular proceedings as minutes of a board in meeting? A. Not in the meeting; no; the minutes of the proceedings is the application as filed, the record of the department is the application as filed, with the indorsement of the commissioner on it, signed by at least two of the commissioners.

Q. Well, apart from these two methods then and calling the attention of the commissioners to the facts concerning the assessment, there is no other means of doing so, is there; that is, on the reports and on the complaints? A. Yes.

Q. Then if there were a grave overassessment, and you failed to detect it on the reports, it would still pass, provided no complaint were made? A. Yes, sir.

Q. Now, suppose there be an underassessment; suppose property is assessed so far under its value that the owner, being sensible and self-seeking, does not complain of the low assessment, how is it possible for you to check the work of the deputy commissioners in that regard? A. The taxpayers are always looking after their interests, and in that connection, if they find any unjustness as they would deem it in comparison with their own property, they would make the point in their application that they are unjustly taxed in comparison with somebody else in the neighborhood.

Q. Then, in that case where there has been an underassessment, you do not find that out unless some taxpayer living in the neighborhood complains of the inequality; is that what we are to understand? A. Well, the probability is that we would find it out through the report of the deputy, as we would in looking over the courts discover a decreased assessment; they can not make a decrease of assessment without its being noticed.

Q. Let us assume it is not a decreased statement; let us take the Reform Club, which, as a matter of fact, the Reform Club has paid \$250,000 to Mr. Eno for that house; that house stands on your books assessed at \$85,000; it may have been so standing any time this five years; but it is apparent on the face of it that the property is worth more than \$85,000, and it is sure that it has sold for \$240,000; now, by what provision is it possible for you or your fellow commissioners to detect an erroneous assessment such as that? A. I do not know of any.

Q. You do not know of any? A. No.

Q. Then is it not quite possible that underassessment might exist on a very large scale and quite generally in the city of New York— A. I don't think so.

Q. [Continuing.] Without you knowing it? A. I don't think so; there might be a special case, an isolated case, as Mr. Coleman put it.

Q. Well, let us take that up; is not every case isolated; is not each particular piece of property taxed on its own basis? A. Yes; every case is, in that sense.

Senator FASSETT.—Just in so far as there are such cases as this just in so far your system is imperfect?

The WITNESS.—We go over our books and if we discover errors of that kind—we are making examinations—I am constantly going over them all the time.

Q. That is not an isolated case but an exceptional case? A. That is an exceptional case.

Q. How are you going to find out whether these cases are exceptional or not? A. Well, by discovering that fact.

Q. Well, is there any case that you discovered to be put down as an exceptional case simply because you have discovered it? A. No; but from our general knowledge of the department we will see whatever was an exceptional case.

Q. Well, now what general knowledge have you of cases exceptional or otherwise, except what you get through examination of the reports, from listening to complaints? A. I do not know as we have any other that I can think of just now, except our comparisons.

Q. We have seen that your comparisons are based on these two methods and does not bring out every exceptional case? A. No; perhaps not.

By Senator FASSETT:

Q. Do you think, Mr. Feitner, that there are many cases where the assessment of real estate is on a thirty per cent basis? A. In this city?

Q. Yes. A. No; I do not.

Q. Do you think that the Eno House, the Reform Club house, is a glaring exception to the general rule? A. Yes; if the price that they paid for it is to be determined as the valuation of it.

By Mr. IVINS:

Q. Do you not think that we could take the *New York Herald* of to-day and go through the record of sales at the Real Estate Exchange, or take the *Real Estate Record* or *Guide* of this week and go through the record there and find that the sales as recorded in almost every

instance showed a purchase price much in excess of the assessed valuations as they appear on your books? A. No.

Q. Do you not think that that could be done? A. I do not think that would be a reliable data to go by.

Q. Why would not that be reliable?

Senator FASSETT.—Wherein wouldn't it be reliable?

The WITNESS.—Very many cases now days they are putting a higher consideration in their deeds for the purpose of encouraging people to buy. That is one of the reasons.

Q. Have you power to compel the attendance of witnesses? A. In connection with valuations?

Q. Yes. A. No.

Q. Can you subpoena property owners to come to you? A. Not that I know of; I have never seen such authority.

Q. Can you call a property owner and put him on his oath to testify as to the price that he actually paid for the property? A. No.

Q. Is there any reason why tax commissioners of this city, should not have that power? A. I do not know about it, except one of inquisitorial examination, which the people are generally opposed to.

Q. Is not the function of every tax commissioner an inquisitorial function? A. Yes; if it does not go to extremes.

Q. Is it not inquisitorial, anyhow; are you not there to inquire; is it not your fixed duty? A. Yes; in that sense, but in the general sense that people understand it, it means to go into every little item of their general business affairs.

Q. Yes; ignorant people suppose the word "inquisitorial" to mean seeking information about matters that do not concern you, but educated people understand the word "inquisitorial" to mean that it is to conduct an examination under the scope of the law; do you think of any power that you should not make such an examination? A. No; there is a disposition on the part of the public, intelligent as well as otherwise, who do not think that the government should inquire into every little item of their matter.

Q. Do you, as a tax commissioner, think the government should not inquire into the actual value of lands, and not the suppositional value of lands for the purpose of collecting taxes? A. I think, if the law should give us power to inquire in any way, the commissioner should do what the law required him to do in that respect; that is for the law to determine; as a tax commissioner, there might be a limit as to how far you might inquire, I might say in relation to values of that kind.



Q. Is there any reason as to why you should be prevented from putting a man on his oath, and making him tell exactly what he gave for a piece of property? A. I know of no reason why that should not be done; and, in fact, perhaps I would recommend that.

Q. Is it a fair assumption to assume that the considerations set out in the records of deeds in this city, are in a majority of cases false considerations, and not actual considerations? A. I do not know as you could say it was so in a majority of cases.

Q. Do you, as a tax commissioner, know of any reason why, if a man sees fit to set out— A. Excuse me; there are not only false considerations, but there are no considerations at all, or a nominal consideration of one dollar.

Q. Now, where there is a nominal consideration of one dollar, you certainly do not tax it at one dollar? A. No.

Q. But you find out the value as best you can? A. I am only speaking of that in relation to the matter of taking values as represented by considerations, which you suggested.

Q. It is apparent, on its face, that when the consideration is one dollar, it is nominal? A. Yes.

Q. But suppose I own this property opposite, and it is really worth \$50,000, that I sold it to you, and put in the consideration in my deed as \$75,000, what means have you of finding out whether that expressed consideration is actually or nominally one of the maximum instead of the minimum? A. We have no means only the knowledge we have and our experience in that respect.

Q. Do you know of any reason why a man should not be taxed on the value which he himself puts into his own deed as a maximum misrepresentation of the price of the property? A. Well, if the rate is to be on a certainty of fair basis, I think there is no reason for it.

Q. Then we will take the *Real Estate Record and Guide*— A. If you take a piece of property at its real value, there is no reason why you should punish a man for something that appears as a fraud.

Q. But you, as a lawyer, are familiar with the doctrine of estoppel? A. Yes, sir.

Q. Do you know of any reason why the doctrine of estoppel should not apply in cases of real estate as well as in other matters in ordinary business life?

Senator FASSETT.—That is, if a man lies about the price of his property, should not he be held to stand by that lie?

The WITNESS.—Perhaps he might if you adopt that principle as applied to taxation, but I do not think it would be fair in questions of taxation.

Q. Then we will go back to the *Real Estate Record* and *Guide* again; we will take the transactions for last week; why then under all the circumstances is it not perfectly fair, so far as the property owners themselves are concerned, notwithstanding the fact that in many cases they may have put in excessive prices for their own secret purposes, to treat all of those transactions as having been honest and fair transactions, just as you treat other transactions in life as honest and fair until they are proved to be unfair, and to levy your taxes accordingly? A. That was rather a long question.

Q. [Question repeated.] A. I do not know what effect that would have on the financial credit of the city if we based our assessments on a high valuation like that, especially when that property would change hands and go down to the lower valuation that somebody else might purchase it for.

Q. Well, what proportion of these transactions do you think are made on an overvaluation? A. Well, it is pretty hard to say.

Q. Do you think that half of the real estate transactions in New York city are made on the basis of wash prices? A. No, sir; I do not think so.

Q. Do you think that one-quarter are made on that basis? A. Well, I would not be surprised to find that one-quarter was.

Q. What are your reasons for thinking that there was one-quarter? A. Well, it is just from my general knowledge, from what I have heard.

Senator FASSETT.—You think the tendency of those who sell land is to boom the market?

The WITNESS.—I think the tendency is to boom the market and keep up the prices so as far as the particular pieces of property that they are interested in are concerned.

Q. Do you think that is a public service on their part? A. No.

Q. Do you not think it is rather an injury to the whole community? A. I think it is.

Q. Do you not think the best way to stop that would be to tax them on their own valuations? A. Well, it might be a means to the end.

Q. Let us take our *Real Estate Record* and *Guide* again, and take a single column of transactions, and strike out one-quarter of those transactions; pick them out at random, because your judgment is one of random, I understand, and leave the other three-quarters, which, on your own assumption, are fair transactions; do you think that in those cases your books will show an assessment of a valuation as high as the consideration set out in those particular transactions? A. No.

Q. How much do you think it will fall below? A. From thirty-five to forty per cent.

Q. Then you think that the average basis of assessment — A. No; I will say from thirty to thirty-five per cent; that is my idea.

Q. Then you think that the average basis of assessment in New York city is really sixty-five to seventy per cent of what the property would sell for under ordinary circumstances? A. No; I do not.

Q. What do you think it is? A. I think it is from thirty to thirty-five per cent of what it would sell for in the market.

Senator FASSETT.—Is not that under ordinary circumstances?

The WITNESS.—That is a question.

Q. Now let us see; I think you are doing yourself an injustice there; did I understand you to say that the assessments would fall from thirty to thirty-five per cent below the market price? A. Below the high market price.

Q. Below the high market price? A. Yes.

Q. Then that would leave the assessed valuation at from fifty-five to seventy per cent of the high market-price? A. Yes.

Q. Then you mean to say that real estate in New York city, so far as you can now judge, is assessed at about sixty-five to seventy per cent of what it would bring under ordinary circumstances, taking the majority of the transactions in real estate as evidence of work of ordinary circumstances? A. Well, I do not wish to put it in that way; I make a distinction between ordinary circumstances.

Q. Just put it in your own way? A. Ordinary circumstances has been construed by our department, and by every person interested in real estate, and assessors throughout the State in taking their position under the law, as a difference in rate between the actual valuation —

Senator FASSETT.—No; that does not answer the question. What are ordinary circumstances with reference to the sale of real estate in New York city, without reference to the other part of the State at all, because the oath is different, the returns are different, and the method is different?

The WITNESS.—Ordinary circumstances in New York city has been recognized by the department to be a difference in rate of valuation as between sixty-five and seventy per cent, and those ordinary circumstances are based upon the fact that New York city —

By Senator FASSETT:

Q. Mr. Feitner, you do not mean that ordinary circumstances is a difference in rate; I ask you what you regard to be ordinary circumstances, in reference to the sale of real estate; for instance, real estate is sold from possessor to purchaser, either by individual contract, or

as the result of an auction sale, or an order of the court, or foreclosure of a mortgage; it may be a forced sale; it may be an exceptional sale, where there is a tremendous desire to possess and a great reluctance to part with the property; now, then, what are ordinary circumstances with reference to the sale and purchase of real estate in New York city? A. One of the circumstances is that the property is bought because of location.

Q. Would not ordinary circumstances mean, does not that phase mean the method under which a great majority of real estate ordinarily changes hands; is not that what is meant by the ordinary circumstances of sale; does not ordinary mean the usual, the general circumstances? A. Well, I can not answer it in that way.

Senator McNAUGHTON.— Well, Mr. Commissioner; let me read you the law under which you act, to make it more clear.

Senator FASSETT.— I will read it; "Among other duties of a deputy tax commissioner are to fix the sum for which such property, under ordinary circumstances, would sell;" now, what is meant by the ordinary circumstances under which property sells, unless it means the circumstances under which property is ordinarily sold?

The WITNESS.— What elements may go into the question of ordinary circumstances of the city different from any other place I do not know, except so far as location of property is concerned.

Q. What has location to do with the method of a sale? A. Well, we are assessing on valuations fairly, in our judgment.

Q. No; you are not? A. We may take circumstances as being ordinary circumstances for the sale of that particular property.

Q. How can you make a general rule in reference to the sale of an individual piece of property? A. Well, as applied to the whole city, yes.

Q. Well, but that is just what you say you do not do; you make a general rule, and say the ordinary circumstances under which an individual piece of property would be transferred; is that what you mean? A. No; so far as that particular piece of property is concerned, yes; we would take that in connection with the circumstances of its probable sale.

Q. Its probable sale; how? A. Any way.

Q. Does this not mean that you are to fix the sum at which any given piece of property should sell, were it to be transferred from possessor to purchaser in the ordinary method of sale and transfer; that is the method pursued generally in transferring property in the city? A. You may interpret it that way, or construe it that way.



Q. I am not construing it at all; I am asking you? A. If that is the construction; the rule of the department has not been such.

Q. What has been the rule of the department? A. The rule of the department is to make a difference of between thirty and thirty-five per cent from the full market value of the property, and considering that what it would sell for under ordinary circumstances.

Q. How do you determine the full market value of a piece of property? A. By our general knowledge of values, by comparisons, by what everybody —

Q. By full market value, do you mean the highest possible value under the most favorable circumstances? A. Yes; under the most favorable circumstances, perhaps; what people would pay for it.

By Mr. IVINS:

Q. Well, is what people would pay for it a better rule than what people do pay for it? A. One of the ordinary circumstances that you speak of that is in the minds of the commissioners is what people will lend on the property, as to determination of value, as to what are ordinary circumstances of sale.

Q. Is it not the rule in the city of New York to lend about sixty per cent on the fair marketable value? A. Yes; and sixty-five and seventy per cent.

Q. Now, do you not know that it is a fact, with reference to a great many pieces of property in this city, that there is a larger sum loaned on bond and mortgage than those properties are assessed for on your books? A. I suppose; that may be so.

Q. Do you not know that there are a great many pieces of that kind? A. No; I do not know of that fact.

Q. Have you never investigated it? A. Yes; I have.

Q. What was the result of your investigation? A. I found it generally about the same.

Q. In other words, you found that lenders are willing to loan an amount equal to about what you assess as the assessed valuation? A. Yes.

Q. And that in each case that amount is about thirty to thirty-five per cent less than the selling market value? A. Yes.

Q. You say that has been the rule of the department? A. That has been the rule of the department from time immemorable.

Q. Did you make that rule? A. No; there is no special rule about it; it is a recognized rule in tax matters.

Q. If there is no recognized rule about it —

Senator FASSETT.—He means it is an immemorial custom.

The WITNESS.— Yes, sir.

Q. Do you hold yourself responsible as permitting immemorial customs? A. I think it is a fair and just custom.

Q. You do not have to swear to any assessments, do you? A. No.

Q. The deputy tax commissioners do? A. Yes.

Q. Do you know, upon the testimony you have given now, if that testimony is true, every tax commissioner is subject to an indictment for perjury? A. I question it.

Q. Well, now, tell us what makes you question it? A. Because the Court of Appeals have held that what administrative officers continuously do year after year is a just interpretation of the law that they are administering.

Q. What case is that? A. I will find that case; I have it in my mind.

By Senator FASSETT:

Q. You say this has been the question in the office from time immemorial; that is very many years? A. Yes.

Q. Have the laws changed any in recent years? A. Not since I have been there, and not for a great many years before.

Q. Would it be deemed immemorial to go back to the year 1882? A. No; I would not consider that time immemorial.

Q. Well, in 1882, the Legislature anew expressed its will in this matter, and created a law which they put on the statute books and called it volume 2 of the Laws of 1882, being the Consolidation Act, and in that law they newly referred to the city of New York; that would wipe out the validity of any established rule that your department had, so far as the law was concerned *de novo*, since this act took effect? A. That might be so.

Q. Well, is it not so? A. You say that it is 1882?

Q. Don't you know when the Consolidation Act was passed? A. Yes; but the Consolidation Act consists of laws in existence; I do not know but what that provision may have been in existence before.

Q. Supposing the law had been identically in existence before, but was re-enacted and reaffirmed, does it not become, so far as the expression of the law-making power is concerned, a new law? A. Yes; it would have the same construction if it were in existence before; there wouldn't be anybody held liable, criminally, if they followed out the same construction that had been pursued by the department for years.

Q. Are you quite sure of that? A. I am satisfied in my own mind; I think it is just.

Q. You think if a person breaks the law long enough and with persistence, dogged enough, it may not only be not a crime, but a virtue? A. No; I do not think anything of the sort; and I do not think it is fair for you to try to put me in such a position.

Q. Well, what do you mean; do you mean that a custom in any city department, which is an open violation of the law, may have the sanction of legality if it is only persisted in long enough? A. It only depends upon what construction you put on what are ordinary circumstances; what would the property sell for under ordinary circumstances.

By Mr. IVINS:

Q. Each deputy tax commissioner takes an oath of office? A. Yes.

Q. And each commissioner takes an oath for himself? A. Yes.

Q. Each commissioner takes an oath to observe and carry out the law; he does not take an oath to carry out the rule at the office; he takes an oath to carry out, to enforce the law? A. Yes.

Q. Since he takes an oath of office to enforce the law, has anybody in the department the right to say to him, authoritatively, the law means so and so; have you, as commissioner, the right to say that to the deputy commissioner? A. No; and we never have said it.

Q. Consequently, in each particular case he is left entirely alone; confronted by his own oath and the statute? A. Yes.

Q. Then where does the immemorial custom come in so far as concerns him? A. That appears to be the judgment of men generally that ordinary circumstances, as construed by law means a difference in rates as between thirty and thirty-five per cent.

Q. Do men generally, who have come to this conclusion, as to what ordinary circumstances are, take any oath of office, and are they responsible to any one? A. Yes; they take an oath of office and are responsible.

Q. You mean the deputy tax commissioners? A. Yes.

Q. But you say that this rule as to what ordinary circumstances means is what men generally say; by that do you mean the whole community? A. I think the whole community agrees with us on that question.

Q. Do the whole community take an oath of office? A. No.

Senator FASSETT.—What you mean by that is, you think most of the community approve of the act of the commissioners in assessing eighty per cent of the ordinary value?

The WITNESS.—No; thirty to thirty-five per cent below the ordinary value.

Q. That you think has the approval of the people of New York?  
A. Yes.

Q. Will you tell me how much, in your judgment, would be an evasion of the law? A. I do not know that I can say what that would be.

Q. Would fifty per cent under valuation be an evasion of the law?  
A. I think the interpretation that the public puts upon ordinary circumstances in that connection would be a fair judgment for the commissioners to go by, and if they put generally, as has been for years done as I have told you, a difference in the rate as between thirty and thirty-five per cent, there is a judgment of mankind generally, and I think it is fair for the commissioners to follow that; now, if they should undertake to put it less, then there would be an evasion.

Q. Then forty-five per cent would be an evasion? A. Perhaps so.

Q. Is there any definite point beyond which you are clear in your mind that there would be an evasion; for instance forty-five to fifty per cent under valuation, would that be an evasion of the law? A. Well, it might be; it depends upon circumstances.

Q. Well, fifty-five to sixty per cent under valuation, would that be an evasion of the law? A. Yes; I think it would.

Q. You think that would be an evasion of the law? A. Yes.

Q. I do not want any misunderstanding here; I want to see if we understand each other; you say the general practice adopted by your department, by its deputies, and approved generally by the public, is after you fix the fair valuation of property you can assess it at sixty-five to seventy per cent of that there value? A. Yes, sir.

By Senator McNAUGHTON:

Q. Right here in that connection, Mr. Feitner, when a party who considers himself aggrieved by your assessment of his real estate makes it known to your office, you give him a blank? A. Yes, sir.

Q. Which he fills out or you fill out for him? A. Yes, sir.

Q. Now, you do not require any affidavit to that, do you? A. No.

Q. Now, if a party comes in and is assessed, as he thinks, too high on personal property, you require him to make an affidavit? A. Yes, sir.

Q. Now, why do you make a distinction; why do you allow the man who desires a reduction upon his real estate to come in on an unverified petition, and when he desires a reduction from the assessment of personal property, he has to verify that petition; why do you make that distinction? A. I do not think there is anything in the law that



requires an examination, so far as the reduction of real estate goes, while there is for personal property.

Q. I ask you why you make that distinction; that is the inquiry?

A. There is no reason except that the law requires an examination in relation to personalty under oath and does not so far as real estate is concerned.

Q. Can you give any reason why that should be so? A. No; I do not think of any reason why it should be so.

Q. Well, now, Mr. Feitner, does it not arise from this; we will suppose that a piece of real estate is fairly worth \$10,000; now you assess that real estate, that very piece, for \$6,500; that is your rule, is it not? A. About that.

Q. Now, when the real estate owner finds out that he is assessed for \$6,500, he compares that assessment with the assessment against an adjoining land owner; you do not ask him to swear that that property is not worth much more, but you ask him to swear or represent that in proportion to some other piece of property it is assessed too high? A. Yes.

Q. Well, does not that look as if you at once lead right up to this; that you put a person in a false position; he can not testify before you that his property is not worth that; but in proportion to some other property, his assessment is too high; is that not it? A. Yes.

Q. And you embody that in your petition; you say here, "whereas the same should have been in his judgment valued at not more than \$..... in proportion to the assessed value of adjacent property." Now, will you point to me in the laws governing new erections, where you have the authority to take that statement from a man only, that is, that he is assessed in proportion? A. There is no authority.

Q. There is no authority? A. No; it is just an application; there is no special authority in making it in proportion; it is an application; we do not always reduce because it is not actually in proportion; if we consider it a fair valuation, we will maintain it for that year and increase the other the next year.

Q. Yes; but what you seek to ascertain is, not whether it is a fair valuation of the property, but whether it is assessed in proportion to the other property? A. At that time.

Q. At that time? A. We consider an equitable valuation — we make what we consider an equitable valuation.

Q. I mean when the man comes before you and relates his grievance, then you seek to ascertain if he is assessed more in proportion than some of his neighbors? A. Well, we do not follow that rule absolutely; if we find the neighbor is assessed a little too low, we

assess him a little higher the next year, and if we consider it right according to our judgment about valuation we leave it as it is.

By Mr. IVINS:

Q. Is there anything thorough, systematic and exact in the way in which this work is done at all, or is it not more or less a slipshod guessing sort of business? A. Well, I do not think you can put it as strong as that.

Q. Well, is it thorough, systematic and methodical? A. I think it is pretty thorough.

Senator FASSETT.—With scientific accuracy?

Q. Do you think it is an evidence of thoroughness? A. No; I do not think in connection with the assessment of against any place that there is scientific accuracy nor would there ever be a perfect equalization; we try and do as well as our judgment and experience in line will permit.

Q. But you move this neighbor up because that neighbor is high or this neighbor is down, because that neighbor is low, and within half a dozen neighbors it seems your valuations are based more or less upon an equalization of those neighbors? A. We take a district of a deputy and have him go through and equalize up, if it is necessary, in connection with other wards.

Q. Can you equalize down? A. Yes.

Q. Suppose a deputy were to assess at the actual market value of property as shown by the real estate transactions, and that in his district the full value of the property, that is 100 per cent, was being assessed, whereas in an adjoining district or ward only sixty-five or seventy per cent was being assessed, how would you equalize those two assessments? A. That is a supposable case that is not in existence.

Q. Mr. Coleman said it was in existence? A. What, that a whole ward was assessed at 100 per cent?

Q. He said that one commissioner might assess at eighty or ninety per cent, and if another commissioner assessed lower, that it was impossible to equalize the assessments by compelling the one who assesses higher, provided he was in the market value of the property, to make a reduction? A. I do not think it is impossible altogether; up to the second Monday in April, the law gives the commissioners power to increase.

By Senator FASSETT:

Q. Let me ask right here, supposing a deputy commissioner, when his attention is called to a large number of increased assessments, and

he is told that they are out of proportion to the rest of the city, and he answers "gentlemen, that in my judgment is the sum for which such property under ordinary circumstances would sell," how can the commissioners cut down that assessment? A. Well, they are given power under the law to cut it down if their judgment disagrees with the other.

Q. Then Mr. Coleman was mistaken when he said they did not have that power? A. Well, I might disagree with him as to that part.

By Mr. IVINS:

Q. Well, now, if the commissioners did cut it down, who has to swear to the roll? A. No one.

Q. Does not the deputy tax commissioner have to swear to the roll in case of a reduction? A. No; the roll is already sworn to by him in making his assessment, and we certified to it.

Senator FASSETT.—It is not a roll then, it is merely a record book; does not the deputy tax commissioner swear to the roll?

The WITNESS.—Yes.

Q. Now, suppose a deputy tax commissioner were to assess a piece of property on his record book or field book at \$100,000, and you would say to them "I think that is too high," and the board would say "we think it is too high, it only ought to be taxed at \$75,000," and it is assessed then at \$75,000, does not the deputy commissioner swear to that roll? A. Yes.

Q. He swears that \$75,000 is its full value here for purposes of taxation? A. Yes.

Q. Notwithstanding the fact that he had been of the opinion that the value is \$100,000? A. Yes; that would be so.

Q. Well, now, is that a legal, a lawful and a proper interference in your judgment, on the part of the tax commissioners, with the deputy tax commissioner who has to take the oath? A. I have never undertaken to interfere in any particular case; I think, under the law, the power is with the commissioners to give general instructions to the deputies; now, if that includes a specific direction as to individual property, that may be a question, but my own judgment is that it is in the nature of general directions.

Q. It is a general direction? A. Yes.

Q. Now, notwithstanding the fact that it is a general direction — A. No; not in that principle, because the power is general directions.

Senator FASSETT—Here is section 813 of the Consolidation Act, "The commissioners of taxes and assessments shall appoint persons to be known as deputy tax commissioners, who shall perform, under their

direction and supervision, such duties as the commissioners shall prescribe; they shall hold their office during the pleasure of the said commissioners."

By Senator FASSETT:

Q. Now, have these commissioners any duties and powers that the tax commissioners do not specifically bestow upon them? A. No; I don't know as they have.

By Mr. IVINS:

Q. But your right in the premises is confined to prescribing general duties; that is, you say to the deputy tax commissioner that he shall assess property? A. The law makes the duty of the deputy tax commissioner to assess property.

Q. And you prescribe the duties to be performed by him; but you prescribe his duties generally; when he shall come to the office, how long he shall stay at the office — A. Assign him to his district.

Q. — what part of the year he shall do his work; what work he shall do this part of the year and what another part of the year; that is the general prescription of duties? A. Yes.

Q. But does that vest in you or in your board the right to say to him that it is his particular duty in a particular case to assess property at a particular valuation? A. I don't think it is.

Q. You do not think it is; neither do I; that being the case, what right have you to interfere in any matter of complaint whatever for an over-assessment? A. Because the law gives us power of equalization.

Q. Does it give you power to equalize by reducing the assessment where it does not appear that the assessment is actually higher than the market price? A. No; it gives us power to equalize, so that there won't be any injustice done any taxpayer, and that equalizes values as values are.

Q. Now, you say it gives you the power to equalize; how do you exercise that power and how can you exercise that power, in view of Mr. Coleman's testimony and in view of the fact that you make no assessments whatever in your own proper person?

Senator FASSETT.—They have to assess under the direction of the tax commissioners.

Mr. IVINS.—That is the method of assessment. That is not the amount of the assessment in any particular case.

Senator FASSETT.—The law fixes what the amount shall be. It shall be the amount at which the property shall sell under ordinary circumstances; still I don't know that we had better pursue this question of



the individual liability any further than necessary to determine something wrong in the actual method.

Mr. IVINS.—The only point I want to bring out is the fact that as between the commissioners and the deputy commissioners, in view of the fact that one set of men have to take their oaths and the other set do not, the subordinate officer is actually responsible while the superior officer is only apparently responsible; that there is a loophole here existing, by virtue of the condition of the law, through which misadministration at least can occur.

Senator FASSETT.—Can occur?

The WITNESS.—Here is the language of it: "The commissioners may, at any time before the second day of April in each year, increase or may diminish at any time before the closing of the books, of any record on the first day of May in each year, the assessed valuation of any real or personal estate in said city as, in their judgment, may be necessary for the equalization of taxation."

By Mr. IVINS:

Q. Now, do you take that to be a limitation or qualification— A. Now, the statute, in addition, gives us power—an amendment to the statute—I don't know whether it is there or not—gives us power to consider all applications during the month of May.

Q. Well, now, take this hypothetical case, Mr. Feitner, suppose it were shown that your deputy tax commissioner in the first ward had systematically pursued the rule of assessing properties at ninety per cent of their actual sales value; that your deputy tax commissioner in the second ward had systematically taxed properties at sixty-five per cent of their actual sales value; that would be a case of equalization, would it not? A. Yes.

Q. Now, how would you equalize; by reducing the assessments in the first ward or by increasing the assessments in the second ward? A. Well, it is a supposable case; it is not fair to be giving supposable cases of that kind, because it is not the fact and it is not likely to be the fact.

Q. We will take the case of the seventh, tenth, thirteenth and seventeenth wards, in which cases Mr. Coleman has said exactly that thing occurred, and he has sworn that he filed his protest because of that, but he has said that he could not—

Senator FASSETT.—How many dollars does the return show increase?

The WITNESS.—Five millions in the seventeenth ward.

Q. He said he could not equalize by reducing those rates, those assessments, in view of the fact that although those assessments were

high compared with other assessments, they still were below the market value of the property? A. Well, I don't doubt but what we have the power to take the ward and equalize.

Senator FASSETT.—If you had the power you did not exercise it in that instance, did you?

The WITNESS.—No; and I don't think we ought to; I am willing to stand by those assessments on an equalized basis all through the city of New York, and I have told those people themselves, a great many of them are personal friends of mine, I think those assessments could be maintained on an equalized basis.

Q. On an equalized basis? A. Yes, sir.

Q. Then there is a necessity for an equalized basis in order that they shall be maintained? A. Yes.

Q. Well, why don't you equalize the basis; it is your duty under the law? A. The equalized basis is from sixty-five to seventy per cent and you won't find those assessments are any more than that.

By Senator FASSETT:

Q. Aren't those assessments any more than that now? A. No; I don't think so.

Q. How were they before this raise took place then? A. Well, there might have been a difference of five, five per cent in the ward.

By Mr. IVINS:

Q. How were they before Mr. Perry went in? A. I say there might be a difference of about five per cent.

Q. You have been how long a member of the board? A. Seven years.

Q. Then for seven years you have let that go on? A. No; it has not been so for seven years, probably; there has been considerable improvement in that section within the last two or three years, which justifies—you know every new building that goes up enhances the neighborhood to a certain extent in value; \$1,000,000 a year I noticed for one year for improvements, or very near 1,000,000 for one year last year, in that ward.

Q. Do you think if a deputy tax commissioner were to assess property at only four or five per cent, or fifty per cent of its value, he would be recreant in his duty? A. I think he would if it was as low as that.

Q. How is it then that he is not recreant when it is fifty-seven? A. Well, you can't get things, as I say, perfectly equalized, and the deputy—he didn't make that assessment; he was not in the district

when that assessment was made; if there was any deputy recreant it was the deputy—preceding him and the deputy preceding him.

Q. The thing would be perfectly equalized, would it not— A. But, of course, things have been booming in the city of New York for the last four or five and six years, in the way of real estate, you know.

Q. The thing would be perfectly equalized, would it not, if sixty-five per cent were taken in every case? A. Yes.

Q. On the presumption, however, that it was sixty-five per cent of the actual value? A. Yes; on the presumption it was sixty-five per cent of the actual value.

Q. Suppose that you calculate fifty-five per cent on figures that do not happen to be actual valuation; then your equalized valuations would all break to pieces again, would it not? A. Yes.

Q. Is not that just what happens all the time? A. I don't know as it does.

Q. How do you vary it and change it by saying, "we will take sixty-five per cent equally instead of taking a hundred per cent equally?" A. How do I vary it?

Q. Yes. A. Or how do they vary it?

Q. If the basis of a hundred per cent is correct in each particular case, nevertheless the taxation will be equal whether they are taxed at a hundred per cent or fifty per cent, or ten or ninety per cent, providing they are all taxed on the same basis? A. There is no doubt about it; it is on the same basis.

Q. The starting point is the value, after all? A. Yes.

Q. And it is not the question of percentage, after all? A. It is the percentage so far as equalization is concerned.

Q. No; that is the very point; how does taking a percentage, providing the same percentage is applied in all cases, produce an equalization, provided the assessed valuation of the sum from which the percentage is to be taken, is not a fair assessment? A. Well, I don't quite understand what you are after; of course, the difference of percentage, if we take it at forty per cent and make it all equal, there is equality and then, under the circumstances, it would be —

Q. Very well then; taking a percentage basis is not an instrument for equalization at all, is it? A. Unless it is regular, unless it is regularly recognized.

By Senator FASSETT:

Q. Unless the value is fixed on a proper basis the mere indicating of a given percentage does not secure equalization, does it? A. No, sir.

By Mr. IVINS:

Q. No matter how uniform the percentage is? A. No.

By Senator FASSETT:

Q. That is to say, if one were wise enough and honest enough and brave enough to actually fix the actual value of all the property in this city, it would be a very easy thing to say "we will take a certain per cent of that," would it not? A. Oh, yes.

Q. And after that value was once fixed, if you took sixty per cent in one ward, sixty-five in another, seventy-five in another and eighty in another, that would be such a gross inequality that you could easily remedy it? A. Yes.

Q. Now, the most difficult thing in your department is, is it not, the exercise of a wise judgment in fixing the actual value of the property as a basis for operations? A. I think so; yes, sir.

Q. And the only method you now have is the judgment of the deputy tax commissioner? A. And our own judgment of equalization; yes.

By Mr. IVINS:

Q. Do you know the Wendell property, Broadway and Thirty-seventh street, Thirty-eighth street? A. No; I don't know as I do; I know of it.

Q. What do you know of it? A. Well, its location and so on.

Senator FASSETT.—Knows there is such a property?

The WITNESS.—Yes.

Q. Do you know that Mr. Wendell is one of the largest real estate taxpayers in New York city? A. I believe he is.

Q. Don't you know that he is numbered with the first half-dozen who pay the largest taxes on real estate? A. No; I don't know as he is.

Q. Say the first dozen then. A. I don't claim to be acquainted with the large taxpayers in New York city; we don't recognize individuals in our department; it is property that we are assessing; we don't even attempt to keep a correct list of owners.

Q. Assuming it is property you are assessing, do you know the property at Thirty-seventh street, Thirty-eighth street and Broadway, on the east side, running east? A. Yes.

Q. Do you know that that property is covered with small, poor, old-fashioned buildings? A. Yes.

Q. Do you know that that property stands in there and virtually has broken the growth of Broadway at that point, and that it stands there as an impediment to development at present? A. As to whether it does or not, that may be a question.

Senator FASSETT.—Perhaps it is not fair to ask the witness. He can describe the condition of things.



By Mr. IVINS:

Q. I want to get at that for this purpose — you know the character of the buildings on that property? A. Yes.

Q. You know that they are not — A.—Equal to Broadway property generally.

Senator FASSETT.— On either side of it?

The WITNESS.— Yes, sir.

Q. — Modern buildings, and that they are not equal to property adjoining on either side? A. Yes; nor anything like it; small, one-story houses.

Q. What is the basis of the assessment of the value of the lots in those cases, as compared with the assessment of the value of the lots on either side where there have been complete, fine, modern improvements? A. I know of no reason why there should be any difference; the basis of assessment is the same, as I understand it.

Q. As you understand it, the basis of assessment is the same? A. Yes.

Q. What is the difference in the basis of assessment on the land itself in cases where the land is built upon and in cases where the land is not built upon, assuming the two plots to be adjoining and equally well located? A. I don't know as there is any difference; the basis is the same.

Q. We understood Mr. Coleman to say that there was a difference in the basis of about fifteen per cent in favor of the unimproved land. A. That arose from what we might consider a question of "ordinary circumstances" in determining valuation of anything, as I understand it, if there was any difference.

Q. Well, now, you have fuller powers and completer powers, have you not, in the matter of reduction of taxes as touching personal property than you do as touching real property? A. Yes, sir.

Q. Now, will you describe the process of the reduction of the personal tax sought to be levied on an individual? A. The process?

Q. Yes. A. Well, the deputy, Mr. Cadwell, who has charge of that matter, he makes the assessments; Mr. Coleman has described the process, I believe.

Q. But what do you do as a commissioner? A. And notices are sent out to the individuals; they go under an examination, before either of the commissioners, as to the assessable property that they may own; the questions arise as to what is assessable property and what is not, and after having been examined, they make the oath that Mr. Coleman described yesterday.

Q. During what part of the year are these examinations made? A. Between January and the thirtieth of April.

Q. That is for a period of four months? A. About that.

Q. Now, during the period of four months of last year — no; pardon me; this present year, it appears from this report that you have conducted 4,762? A. Yes, sir.

Q. That is, during a period, leaving out holidays and Sundays, of about a hundred days? A. Yes.

Q. So that you heard some forty-seven cases a day? A. Yes.

Q. On the average, during that period of a hundred days? A. Yes, sir.

Q. Tell us the extent of the investigation made by you generally in such cases? A. Generally ask them what their business is and what amount of personal assets they have; that depends upon circumstances; if we find that a man is in a large mercantile business we go into the question as to the total amount of his interest in business; whether he has anything in the way of assets outside of his business, and then the question as to whether he is in debt; they generally set that up themselves without being asked.

By Senator FASSETT:

Q. They hasten to do that, do they not? A. Not always, although some of them are only too anxious to swear off, on the ground that their debts exceed all their personal assets, but we don't allow that; that is a conclusion, we claim, and we examine them as to their general assets.

By Mr. IVINS:

Q. As matter of fact, when they come to you personally as a commissioner, they come with their affidavit already prepared, do they not? A. No.

Q. They prepare the affidavit in your office? A. No.

Q. Where do they prepare it? A. We have a little stamp which we stamp — when they come before us we stamp the paper —

Q. What paper? A. The notice that they have received; there is a blank on the notice that they receive of about three inches, three or four inches, and we put a stamp on the paper and then begin the examination with them, and that affidavit — that stamp is a short affidavit as Mr. Coleman described it.

Q. Now, commissioner, have you never put that stamp on and taken that affidavit without having put the party through an examination? A. How is that?

Q. Have you never put that stamp on and taken the affidavit and approved of the striking off of the assessment without actually hav-

ing put the party through an examination? A. Have I—I don't quite un—

Senator FASSETT.—On the mere filing of a written affidavit have you not placed that stamp on it?

The WITNESS.—No.

Mr. IVINS.—No; that is not it.

Senator FASSETT.—Isn't that it?

By Mr. IVINS:

Q. Have you never, when the party came to you, affixed that stamp and taken his affidavit and approved of striking off— A. Without any examination?

Q. —The assessment without any examination? A. No.

Q. Have you had that examination in all of these 4,762 cases? A. Yes, sir; I can not think of an exception.

Senator FASSETT.—How long did it take?

Q. How long does it take to do that each day? A. Why we swear off a hundred men, a hundred to a hundred and fifty a day; those examinations run into—in January there are more people come in and in April there are more, the early risers and the late, and during March and April—during March we don't have so much to do, February and March in that connection, although they keep straggling in at the rate of about twenty, thirty or forty a day, but they purposely, I think, a great many of them, purposely delay coming in until near the thirtieth of April and we have got to do it almost by machine work.

Q. What do you mean by doing it “almost by machine work;” let's get that more definitely? A. To attend to the people's wants, the applications of the tax-payers, we have got to do it as rapidly as we possibly can.

Q. Which is your first duty, to attend to the want of the tax payer who is seeking to escape taxation, or to attend to your oath of office and the want of the city, to compel every man to pay his tax as he ought to pay it? A. I don't think you are putting it right when you say they are seeking to escape taxation; they are coming in for the privileges that the law gives them.

Q. Has the city any right or privilege in the premises? A. The city has the right to see that assessments are properly made.

Q. And you have a duty in the premises, have you not? A. Yes.

Q. Is it your duty to rush them through, as it were, by machinery, simply because they come there to swear off? A. No; not altogether, but that was the fault of the law, I think.

Q. In what regard is it the fault of the law? A. In not limiting it as to time, in relation to wards, I think, in the place of having the whole city come in on us at once; if the law provided which wards should be heard of at certain times, we would be able to regulate it; the law would regulate it then for us; it gives 10,000 people the right to come in on the thirtieth of April, if they pleased; it might be our duty to hear them.

Q. You could not hear 10,000 men on the thirtieth, unless you built a machine to do it, could you? A. Yes.

Q. Then you would do it literally by machinery? A. Yes.

Q. Now you approximate that as closely as possible, do you not? A. No.

Senator FASSETT.—Have a rubber stamp built?

The WITNESS.—Yes.

By Senator FASSETT:

Q. Why, in view of many avenues of escape from personal taxation, does not this question of the assessment of personal property become the merest form in the world? A. Except on corporations, yes.

Q. Except on corporations? A. Yes.

Q. With regard to any man who desires to swear off his personal assessments, he can do so without any trouble? A. Yes.

Q. No matter how earnestly you may seek to discover his personal assets, he can easily avoid it? A. Why, yes.

Q. Well, then, does it not degenerate into the merest kind of machine work? A. To a great extent, yes, as I say.

Q. Why would it not be better to abolish all taxes on personalty and let the real estate carry it all in law as it does in fact? A. I don't know but what it might be quite feasible in the city of New York; I never satisfied myself in that connection as to doing that; in large cities where it is next to impossible to understand the situation of the people, as to what they have — who have personal property — here we don't know our next door neighbor; we can't tell anything about what he may own, and if he does own considerable amount of property, it may be all untaxable assets.

Q. What do you say as to the continuance of a system which leads to the perpetration, not of fraud, but of subterfuges against the law? A. Well, I don't think the system that we have in operation now is a good system; I think it could be changed.

Q. Do you think it is possible to devise a way so as to reach all personal property? A. I do not.

Q. For the purpose of taxation? A. I do not; I think the elements of uncertainty that are connected with the ownership of personal



property, which are, principally, a *situs*, you have to go by *situs*, and have to follow the individual, in some cases; changeable conditions of ownership readily — all these elements have a tendency to destroy effectively the taxation of personal property.

Q. Do the names of the deputy clerks appear on your rolls? [No answer audible.]

Q. Were they in the list presented by Mr. Coleman? A. I don't know.

Mr. IVINS.— In the list presented by the accountant, which we had here and submitted to Mr. Coleman; they are in the list of employes?

By Senator FASSETT:

Q. Then a deputy tax commissioner can have no connection with you who is not known to the department? A. The deputy — he is an employe of the department; he is assigned to the deputy, the clerks.

Q. Is there a class of attorneys or agents who habitually appear before you to urge the reduction of assessments on real estate? A. A class; no; not that I know of.

Q. No such recognized calling as a taxbroker, for instance? A. No; I never heard of it.

Q. You never heard of such a thing as that? A. I say I never heard; I have heard of such things being, but I never knew one recognized as a taxbroker.

By Senator McNAUGHTON:

Q. Will you send for ten applications for reduction on the assessment of real estate and ten on personal property, as they have been acted upon? A. Blanks?

Senator McNAUGHTON.— No; actual applications, upon which action has been taken; ten of each.

By Senator FASSETT:

Q. How are the entries made in the field book; are they made in lead pencil? A. Yes.

Q. Would the books show — A. That is only a memorandum for his record you know; that is all, practically.

Q. Are these field books ever open to the inspection of any one except the deputy tax commissioner? [No answer audible.]

Q. Could they be seen by any one on application at the office? A. I suppose they could; I suppose they would show then; I don't know that the question was ever raised.

Q. I wanted to find out what the practice was? A. The records are the books that are open to the public by law; not the field books.

Q. The law requires the records to be open? A. Yes.

Q. But the field books, as matter of practice, are open to any one who desires to see them? A. I have never heard the matter questioned.

Q. Do you know whether they are ever inspected? A. I do not think they are.

Q. Would the books themselves show any alteration that might be made in the original entries in the field books? A. Yes.

Q. They would show; would they? A. You mean the field book as compared to the record book.

Q. The field book, as compared with the record, would show any difference between the record and the field book? A. Would not show.

Q. Would show; would it not? A. The difference?

Q. Yes. A. No; the field book is supposed to be the first valuation that he puts on it; he don't change it; of course, if he did he would make a record in his field book again.

Q. An entry is made originally in the field book? A. Yes, when he goes through the field.

Q. If there was a change made after that original entry, before the transcript was made into the record, would that change be indicated on the field book? A. Yes.

Q. Or would the original entry be erased with a rubber, and a new one entered? A. Oh, yes; there would be a new one, I suppose, entered.

Q. Then the field books would not necessarily, on their face, show whether there had been any tampering with the original estimate of value placed on any given piece of property? A. No.

Q. Are you familiar with the class of institutions known as co-operative building and loan associations? A. Somewhat.

Q. Are any of those institutions exempted from taxation? A. I do not remember now that they are.

Q. Have they ever made any application to be exempted from taxation? A. Yes; one of them, I believe, did; made a fight in court about it.

Q. That is the East Side Association, is it? A. I think it was.

Q. On what ground did they claim exemption from taxation? A. That the act of 1875, I think it was, exempted those associations; they were incorporated though under the act of 1857, or some other year.

Q. Eighteen hundred and fifty-one? A. Eighteen hundred and fifty-one, in which there was no exemption; I think that was the point.

Q. Do you know whether the department makes any difference between those institutions that were incorporated under the act of

1851, and those that were incorporated under the act of 1875? A. They don't, I think, not so far as I am concerned; I haven't made any — in some way or other that got on the assessment-list for that year, and was assessed.

Q. Is that the only one on the assessment-list? A. I shouldn't say that it was.

Q. Do you know how many are on the assessment-list? A. No; I couldn't tell you.

Q. Would your books show? A. Well, by name, yes; that is, if you can tell all these associations by their name, you know; they do not always indicate what kind of an association it is by name; if we get a list of those associations I should be able to tell you.

Q. Who has charge of that? A. The deputy, Mr. Cadwell.

Q. One given deputy, Mr. Cadwell? A. Yes; one given deputy.

Q. If I wanted to find out how he determines their property so as to tax it, he would be the witness to call? A. Yes.

Q. You don't know then whether any distinction is made between the so-called State associations and so-called National? A. Never heard the question raised as to whether there is any distinction or not; I do not think there is.

Q. Mr. Feitner, I am going to suppose a case for the purpose of seeing if you can give us any help; supposing a deputy tax commissioner should assess on his field book, a given piece of property at, say \$500,000, and that were twice the amount at which the property had been assessed at any previous time, and the owner of the property should be informed that his assessment had been violently doubled; could that owner make any arrangement whereby that assessment could be reduced to the original \$250,000, without having that fact known to the tax commissioners? A. Oh, I suppose so.

Q. How could it be done? A. It would have to be done with the deputy, if he was dishonest.

Q. Would it necessarily imply dishonesty? A. If he ought to have been assessed at \$500,000 and was kept down to \$250,000, there would not be anything honest about that.

Q. Did you ever hear of anything of that kind being done? A. Oh, I have heard of a good many things that way, but I have never been able to find out anything substantial about it.

Q. Did you ever pursue an investigation into any such accusations? A. Well, I have never heard of anything as to particular pieces of property; I have heard of it in a general way, that a deputy —

Q. You have never had any — A. I heard there was one man in the department — I don't want to mention his name now.

Q. That is the man who is dead now, is it? A. Yes; I think he is; I am not sure; I do not know whether he is dead or not.

Q. Well, what did you hear? A. Well, that he was disposed to be looking to the property owners to do something for him in the way of protecting their property.

Q. If deputies did look to property owners for something in the way of protecting their property, the owners could deal with them pretty safely, could they not? A. Well, no; not through our method of following up things; there might be an exception once in a while, but not in a general way.

Q. Might be isolated cases here and there? A. Yes — “exceptional cases,” we put it now, if you please.

Q. Exceptional cases? A. Yes.

Q. Have any definite complaints ever been made to you or to your board that such is the practice or has been the practice? A. No.

Q. Not since you have been commissioner? A. No.

Q. Not since you have been commissioner? A. No.

Q. Have you heard, in a general way, that any such abuse was practiced since you have been a commissioner? A. No; a general abuse do you mean, or a special one?

Q. No; have you heard in this general way that this practice was in vogue? A. No; I don't think there is any such practice in vogue in the city of New York to-day, or has been for a great many years in the tax department; I have a good deal of confidence in the gentlemen generally, the other deputies in that department, as to their personal honesty and fairness.

Q. The only way anything of that kind could be done would be by tampering with the tax commissioner? A. Or with the deputy.

Q. I mean the deputy? A. Yes.

Q. The tax commissioner could not be reached quite that way, could he? A. If he is a dishonest man, there is no reason why he could not.

Q. After the deputy has made his return, has filed his field book, and that has been copied into the record, no change can be made there without becoming a matter of public record, can there? A. No; not at all, without becoming a matter of public record.

Q. But assessments in the field book before it is copied into the record, then the changes might be made at the will of the deputy? A. Of the deputy; has to be followed up by the commissioners, so far as their examination is concerned.

Q. Now, without reference to the fact as to whether such practice is in existence, is not that the only way by which any tampering can



be done with the assessment of property without becoming a matter of public record? A. Yes.

Q. Supposing one of you tax commissioners wanted to do a favor to some friend and secure a general reduction of his assessment, you would have to do it openly? A. On the record—the record would show it.

Senator FASSETT.—Have this deputy, Cadwell, subpoenaed; I want to ask him, before we finish this investigation, some questions about these co-operative associations.

By Senator McNAUGHTON:

Q. Mr. Feitner, what is your opinion of the existing system of taxation throughout the state, both real and personal property? A. In relation to the board of equalization.

Q. No; the system of taxation? A. Oh, the general system.

Senator FASSETT.—Whether it is satisfactory?

The WITNESS.—It is satisfactory to me, except on personalty, that is all; by the way, I want to suggest here, this committee ought to take notice of the fact, you know that the insurance companies have been made exempt by legislation, for local purposes.

Senator FASSETT.—Fire insurance companies?

The WITNESS.—Fire insurance companies; yes, in the city of New York; that was an act passed two or three years ago, and the Court of Appeals has held that they are entirely exempt for local purposes.

By Senator McNAUGHTON:

Q. Well, what do you think is deficient in the system of assessing personal property; what have you to suggest in regard to that? A. Well, it is a subject that I have often thought of, but I have never come to any satisfactory conclusion as to how we would be able to arrange it; I think it requires the consideration of a great many minds interested in different businesses, by which the thing could be properly regulated; I don't think one mind, especially a lawyer's mind, can altogether regulate the method of assessments, by which equality or anything like equality would fall upon the different business interests of this city or this State.

Q. Would you advise that a commission be appointed to revise the assessment laws of this State? A. I should think it would be well; I don't know of any other method of getting at it in any way satisfactory, except through a commission.

Q. Mr. Coleman testified that so far as personal property was concerned, that the assessment was confined to widows, and orphans and

those who didn't know enough to get rid of their assessment; now, do you think that that assessment should continue long? A. Well, I don't agree with — although we do assess estates, as a class, more than, perhaps, any other class, yet it is because of the fact that we have more positive knowledge as to the situation of the property, and the additional fact that there is no person especially interested to try to evade the law; as they represent a fiduciary capacity they are not especially interested to evade.

Q. Well, don't you think a very great injustice is done that class of people under the existing law? A. Well, as a class, putting them as a class, I don't know as it is an injustice; as long as they as a class are equalized there is a good deal of fairness in that; now, you take another class, for instance the banks of this city; by law you classify, to a certain extent, the taxation upon different kinds of corporations; the theory in my mind is that if we can get competitive interests in business so far as taxation is concerned on an equality as to method of assessment, it would be better than to put all the people on the one basis; in that way you would be able to obtain, I think, a better condition of affairs in the way of assessments of personal property; for instance you might say that we will take estates now at one per cent; suppose you fix a one-per-cent basis or valuation for estates.

Q. Would you suggest that? A. Well, I don't know as I would without further consideration, determine the figure, but I think it might be well to do it, so far as the method of doing it; and in place of having the assessment made at the residence of the executors I would make it at the residence of the decedent; because we are now involved in the question as to double taxation, perhaps, in this State, under that law; there being two or three executors, one living in each county, each claimed that ought to be assessed in his county; if we assess higher in this county than they do in Westchester or Orange, why they will transfer the assets to Westchester or Orange, and the courts have maintained that where there are three or four residences of that sort, that wherever the assets are is one of the elements to determine where the assessment is to be; so that involves quite a number of questions, and then the question of residence outside of that.

Q. Have you a question of that kind in the court now? A. Oh, that has been decided in the case of Darrow; I think it is.

Q. Darrow? A. Yes.

Q. By what court? A. By the Court of Appeals; thinking the question in relation to the State and the city of New York might come up again, I have prepared a table of comparison for you so that

you might consider how the city of New York is affected in comparison with the State on assessments, from 1885 to 1889, taking a certain number of counties which have obtained perhaps the largest reductions by the State Board of Assessors, and evened it up in comparison with the amount that is put upon the city of New York, one hundred and thirteen to one hundred and twelve million reductions, one hundred and ninety-nine to eighty-eight, and so on, one hundred and nineteen; and that shows, as I claim, that there is a county that by the assessors in their different counties, in 1884, was made upon a basis of that kind, — Cattaraugus was sixty per cent; Cayuga sixty-five per cent, and so on; these lead pencil figures is a calculation upon the figures that they give us of the ordinary sales; the others is a statement, some by oath and some by statement of the Board of Assessors as to their percentage of valuation; now I claim that, for instance—

By Senator FASSETT:

Q. What are these leadpencil figures in here; what are these leadpencil figures inside of the column giving the names of the counties?

A. Oh, that is the valuation that the State Board of Assessors must do, find the valuation of those counties for the purpose of reducing, for the purpose of giving the introduction which they do give in those separate counties; in other words, Cattaraugus, they find, is assessed ninety-four per cent of its actual valuation, for the purpose of giving a deduction of \$7,000,000 a year to that county all the way along; now that, I think, is such a preposterous statement in that connection, I don't think anyone can believe it; that is part of the injustice that is against New York city; and yet the assessor, when asked the question, in this book says that those assessments up there are sixty per cent, and the Board of Assessors had to find that the assessment was ninety-four per cent to give the reductions that they did; and so it runs all through those different counties.

By Senator McNAUGHTON:

Q. Why do you go back to 1884, Mr. Feitner? A. I went back to 1881 and 1885 with the State Board of Assessors, and so I didn't want to make the paper too long and I made it from 1885 down to date now; that was all there was of it.

Senator McNAUGHTON.—Well, if you will leave that here we will examine it.

By Mr. IVINS:

Q. Mr. Feitner, what became of the case of The People on the relation of The Mayor, Aldermen and Commonalty against the State

Board of Equalization? A. That case, as I understand it, was determined in the end by a decision to the effect that as long as the city of New York raised the State taxes, that the city was compelled to pay and couldn't go into the merits of the question.

Q. Was that the decision of the Court of Appeals? A. I understood it was; I am not so sure about that, though.

Q. All I wanted to get at was whether or not the appeal to the Court of Appeals was actually heard and whether we had a decision of the Court of Appeals in this action? A. I don't think the Court of Appeals has decided; I think it was the General Term.

Q. You think it stopped at General Term? A. I think so.

Q. Although an appeal was taken to the Court of Appeals? A. I do not know whether it was or not.

Q. This appeal book, just produced, is an appeal book to the Court of Appeals containing a notice of appeal to the Court of Appeals; I ask whether or not it has been determined in the Court of Appeals or whether the decision to which he refers is the General Term decision? A. I am not so sure, but that — I didn't have the book of the case for that point; I had the book for the purpose of the statement of the different assessors throughout the State.

Q. Now, Mr. Feitner, why should there be three tax commissioners instead of one? A. Well, as a matter of appeal; I think it is fair to the taxpayers in the city of New York that when they make an appeal from a deputy who has already given his judgment, that they are entitled to the judgment of three men; that is recognized in all proceedings in court; it is upon that general principle.

Q. These three men, as we have seen, take no oath, are not assessors, and only nominally act as a board with regard to these appeals; they do not actually act as a board? A. Yes; we do.

Q. Do they sit down as a board and have meetings and send for parties and papers? A. No; no.

Q. Now, why is it not quite as proper, quite as just and quite as fair to permit one man to determine an appeal, as it is to permit one man to levy the assessments in the first instance? A. I do not think the judgment of one man in that connection is as good as the three.

Q. Do you think the judgment of one man is as good as the judgment of three men for the purpose of making assessments? A. Yes; I do, as long as there is the right to fair appeal.

Q. You think that it requires more persons to honestly and justly determine an appeal, under the methods now pursued in your office, than it does to make the assessments fairly? A. No; I do not think there is any question of honesty about it; I think it is a question of



fairness and judgment; that is all; three men ought to be able to determine the thing, if there is any question of unfairness, better than one man, at all times; and you are taking away men's property; I think you should not commit them to the judgment of one man with immense power in the tax department in the city of New York — a very dangerous power.

Q. Are they not virtually in the hands of one man now? A. No, sir.

Q. Are they not virtually in the hands of the deputy tax commissioner? A. No; not while they have the right to appeal to the board of tax commissioners.

Q. Would they be any the less in the hands of the commissioner if they had the right of appeal to a single commissioner instead of three? A. I think it would be a dangerous power to put the tax department in the hands of one man.

Q. In how many cases do you know of a discussion among the tax commissioners? A. Oh, a number of cases.

Q. Actual discussion? A. Yes, sir; long consideration.

Q. Well, those long considerations are generally in the case of these big buildings and large estates; are they not? A. That, generally, and wards.

Q. And the point under consideration is as to how much below their market value they shall be assessed at; is it not? A. No.

Q. Is not that really it? A. A matter of fair assessment, according to our judgment.

EDWARD L. PARRIS, being duly sworn, testified as follows:

By Mr. IVINS:

Q. Mr. Parris, I do not propose now to plough over any part of this ground again that we have gone through, unless, having heard the testimony of Mr. Coleman and the testimony of Mr. Feitner, there is anything that you want to add to it, or any particular regard in which you wish to make a statement of facts where you think their statement of facts has either not been full enough, or has been incomplete for any reason whatever. A. Well, I made no special memorandum with that in view; it may occur to me before I get through with the examination; I am not prepared now to state exactly in what way I — their views, you know, do not accord with mine entirely.

Q. At what percentage of the actual salable value of the property is it your judgment the real estate of New York is now assessed at? A. Well, my judgment is based entirely upon representations that have been made to me by my associates, my fellow commissioners, and by the deputies.

Q. Yes. A. And I should say, from that, that it is twenty to twenty-five per cent.

Q. Below? A. Twenty to twenty-five per cent below, I should judge; I am not prepared to say that that is my opinion, however.

Q. Well, it is certain that whatever it may be, that it is a fluctuating percentage? A. It is a fluctuating percentage, as all values of real estate are fluctuating in this city.

Q. No; you have got a little confused there; it is a fluctuating percentage; values of real estate are fluctuating, but there is no necessity for the percentage to be fluctuating. A. No occasion for it.

Q. If you are going on a percentage basis at all, you ought to have one percentage absolute to apply to all, ought you not? A. I think so.

Q. It is uncertain whether it is twenty or twenty-five per cent below, or as Commissioner Feitner has sworn, thirty per cent below, or thirty-five per cent below? A. Well, I don't know how you are to determine what that percentage is below, for the reason that the standard is not fixed.

Senator FASSETT.— Exactly; that is it.

Q. Then we find that, having no fixed standard, we not only have fluctuation in valuations, but we have a fluctuation in the percentage of valuations that is going to be assessed? A. Yes; the difficulty arises in what individuals would regard as a sale under ordinary circumstances; there is the difficulty in the whole matter.

Q. That is the first difficulty, and then the next difficulty is that anywhere from thirty-five to twenty-five per cent will be taken off from that? A. No; that is not — you ask me what the facts are, and what my judgment is, are two different things.

Q. Now, what are the facts?

Senator FASSETT.— Let's have them both.

The WITNESS.— In regard to the facts, the general impression I have, derived from the short time I have been in the department, is that the percentage — that the assessment is perhaps twenty per cent below what would be regarded the market value; whether the market value is the price at which the property would sell for under ordinary circumstances, is another question.

By Senator FASSETT:

Q. What is the market value? A. Well, a market value is varying — is a value that varies every day.

Q. That is not only true of real estate, but every salable piece of merchandise, is it not? A. It is true of everything.

Q. Then the market value is what property of any kind would sell for under ordinary circumstances on any given day, is it not? A. No; not necessarily; not under ordinary circumstances.

Q. Is not that the market value? A. The market value is what it does sell for as a matter of fact without regard to circumstances; assuming that it is sold in open market, I mean.

Q. What do you mean then by the phrase "Why, that is sold way above the market value?" A. That is something I cannot explain; I do not profess to know.

Q. Then you think that what property ordinarily sells for, is not the selling value of property under ordinary circumstances? A. No; I won't say that; the market value is not always what, in the opinion of many, would be regarded as a sale under ordinary circumstances.

Q. No; not always; but ordinarily? A. You are fixing a very variable standard here.

By Mr. IVINS:

Q. Well, don't you think if you are going to operate on a percentage basis at all, that it ought to be a fixed standard? A. I do; absolutely.

Q. Then there are two faults, are they not; first, that you operate on a percentage basis at all, instead of on the actual basis, which fault is necessitated by the fact that everybody else does the same thing? A. That is the reason given for it; whether that is a sufficient reason or not, that is another thing; that is a question of morals.

By Senator FASSETT:

Q. And not a question of law? A. No; not at all.

By Mr. IVINS:

Q. Then after that first fault has been committed, whether it is a fault of morals or a fault of law, the second fault is committed in that you have a variable standard of percentage to be taken, which may be anywhere from twenty to thirty-five per cent, and your fellow commissioner who has just occupied this place, says it is from thirty to thirty-five, and you say it is from twenty to twenty-five below the market value.

Senator McNAUGHTON.—And Coleman says twenty to twenty-five below.

The WITNESS.—I should say that his opinions in that regard and Mr. Coleman's opinion in that regard would be better than mine for the reason that they have had much longer experience in the department, for I have been there but a year and a —

By Mr. IVINS:

Q. Yours agrees with Mr. Coleman? A. I don't know that it does; it does, as a matter of fact, does it?

Q. Yes; he said from twenty to twenty-five; he says from twenty to twenty-five; Feitner says thirty to thirty-five below; then it is quite possible, not only, but is actually the fact that assessments as levied are not levied on a basis of a uniform, fixed percentage of the value under ordinary circumstances? A. I don't know as to that; I am not a deputy.

Q. Who is the responsible man in your department, and who really lies at the foundation of your department, you or the deputy? A. The deputy in the first instance, and we as an appellate court.

Q. Is it not a fact, to your knowledge, that in some of the districts in the city, a higher percentage of the ordinary market value is assessed, than in other districts of the city? A. Well, that is a difficult question for me to answer; I should judge from the testimony that I have heard given here during this investigation, that that was the case; as a matter of fact I cannot answer in the affirmative.

Q. Do you believe there has been an increase of five millions and a half in round figures in the values of property in the seventeenth ward this last year, as compared with the year before? A. In the seventeenth ward, that is a very large ward.

Q. It is five and a-half millions more this year than it was last; now do you think there has been that increase within that time? A. I should hardly think that there had been.

Q. Then, one or two things is certain, either it is overassessed now comparatively with the rest of the city or else it was heretofore never assessed comparatively with the rest of the city — one of these two things follows? A. Yes, sir.

Q. Neither of these two things could follow unless there was a failure in the first instance to take the ordinary market value, or in the second instance assuming that the ordinary market value had been taken there was a fluctuating percentage for the purpose of assessment in the different districts? A. Not necessarily; I do not think that would follow; it might be from a variation in judgment as to values of different deputies; now, I can see how a deputy might under his oath and in entire honesty fix a sliding scale of values which property might sell for under ordinary circumstances, and by that I mean that under ordinary circumstances it might sell for a sum which was much lower than another sum that he might suppose it to sell for under ordinary circumstances, and at the same time the judgment and the conclusion be entirely honest ones; perhaps I can illustrate it



better by supposing that in fixing the value of a piece of property a deputy might say that under ordinary circumstances that property would sell at from eight to ten thousand dollars, and that in his opinion the assessment should be under those circumstances \$8,000, at the same time it might sell in his opinion for \$10,000 under ordinary circumstances; but as the standard is so variable, he, with a perfect propriety might fix it at the smaller amount which would be in that case twenty per cent less than the larger one.

Q. That would be entirely accidental though, would it not, in such a case as you have taken? A. Not necessarily accidental; I assume that there are not two persons in this room, for instance, that can assess property within twenty per cent of each other.

Mr. IVINS.—I think that is very possible; I do not think that any two persons in the room here would assess property within twenty per cent of each other.

By Senator FASSETT:

Q. But when there is a divergence between the assessed valuation and the apparent value on the salable value of sixty or seventy per cent, so that the assessed value is only thirty per cent of the selling value, that can not be accidental can it? A. Well, it might be; these sales at auction and the private sales here in the city are entirely misleading as to the value of the property, and as to what they would sell for under ordinary circumstances.

Q. All private sales? A. No; not all private sales, but I say some private sales, because under ordinary circumstances it is a pretty difficult term to define what constitutes the marketable value of property.

By Mr. IVINS:

Q. Don't you think there ought to be legislation to make that definite? A. I do, certainly; I think that there ought to be legislation to make that definite; it is indefinite now.

By Senator FASSETT:

Q. Let me ask you, and in plain Anglo Saxon, is not this under valuation the result of a long enduring conflict between New York city on the one hand and the rural counties on the other—is there not a persistent and well defined effort on the part of your department, for instance, while you keep these valuations equalized with reference to the various wards, to keep them as low as possible with reference to the actual value? A. Do you mean as compared with values outside of the city?

Q. Yes. A. I don't think it is; I think that we are charged with that,

however; it is so charged, but I do not think the charge is true and well founded.

Q. Do you think that the charge is true that country assessors keep down their valuations for the purpose of protecting themselves against the city? A. It is so charged.

Q. Well, do you believe it? A. Perhaps I ought to answer that I have not sufficient knowledge or information to form a belief.

Q. If you did believe it, wouldn't you feel that your department was justified in doing the same thing in return? A. Not in law.

Q. Well, in fact? A. Nor in fact.

Q. Why is it done then? A. I do not know that it is done.

Q. Why is this eighty per cent valuation indulged in? A. Well, I have suggested how an eighty per cent valuation might be indulged in and indulged in honestly by a deputy, because he would be unable to fix the exact amount. .

By Mr. IVINS:

Q. That is not eighty per cent of the valuation; that is the valuation itself, the thing that you are talking about? A. There would be twenty per cent variation, I mean; that a deputy might vary twenty per cent.

By Senator FASSETT:

Q. He might do that in one case and in the very next case he might fix it at the \$10,000 limit? A. Very likely he might; I mean to say this, that I do not think the deputy, under his oath, has any right after he has fixed in his own mind and his best judgment that the value of property is so much, a fixed sum—I do not think then, under his oath, he has any right to deduct twenty per cent, for instance.

By Mr. IVINS:

Q. Then, you think in the case such as I pointed out, of some of the houses belonging to Mr. Astor in Harlem, where the property is assessed at \$8,000, and where Mr. Coleman swore that it was worth \$12,000 as a minimum price in his judgment, and where it is quite possible that we could call witnesses who would swear that it was worth from 16,000 to 17,500, if it was assessed at \$8,000 you would think that the deputy had not done his duty? A. I do not know; if I was a deputy, I could answer the question better.

Q. Do you think a person is a proper person to be deputy who will assess at \$8,000 for a four story, high basement, twenty foot front, brick house on One Hundred and Twenty-ninth street within 150 feet

of Fifth avenue? A. I should have to examine the premises first; I never assess property without examining the premises.

Q. How far are you personally acquainted with property in New York city? A. I can not answer that question.

Q. Have you any familiarity with it? A. Some.

Q. As a dealer or trader? A. Not as a dealer; no, sir.

Q. Have you ever been in the real estate business? A. I have not.

Q. Have you ever been an expert in fixing real estate values? A. No.

By Senator FASSETT:

Q. Then, as a court of appeals, you are entirely unbiased? A. If I considered myself an expert, I should not want to swear to it on the stand; I have had more or less experience in appraising property in connection with street opening proceedings; I never dealt in real estate here in my life.

By Mr. IVINS:

Q. Have you any suggestions to make to the committee in regard to changes in the law that would improve the administration? A. Well, I don't know; it would be rather presumptuous for me, in the experience I have had in that office, to make any suggestions as against the judgment of men who have been there twenty or thirty years.

Q. How long have you been there? A. I have been there a year and a half.

Q. That is six months longer than the term of a Member of Assembly, who introduces and advocates the passage of all kinds of bills? A. I have never been in the Assembly; I am clearly of the opinion that the tax upon personal property under the law is almost an entire failure; I am satisfied that it is inequitable and unjust; that it leads to efforts, and very strenuous efforts, on the part of capitalists to remove their capital beyond the jurisdiction of this city and this State; it offers no encouragement for capital to come to this city or this State; the law, as now construed by the courts, enables any one who chooses to so dispose of his personal property that it will be impossible for the tax department to reach it; they may do so properly under the law, and those who understand the law and can take advantage of it, do in the majority of cases; those who are ignorant of the law and do not understand their rights, pay the taxes; the result is that a large amount of capital, which the law intended to reach in the first instance, is now, by operation of law and by the decision of the courts, taken out of the category of taxable property.

Q. And it might as well be done thoroughly and completely as to be left as it is now, where it is a mere delusion and a snare? A. It

would be much better, because the people at large would be much better satisfied; as it is now, it creates suspicion in the minds of people at large that capitalists are favored by the tax department, and that a man of moderate means is assessed more than he should be for that reason; that it is not equitable and is not just; it gives the impression that the commissioners are open to influences from moneyed men that the ordinary citizen can not reach.

By Senator FASSETT:

Q. How would it do to abolish the present system, so far as personalty is concerned, and impose a tax upon all personal property as it passes through the surrogate's office, and thus catch it once in a century and make it pay a greater tax?

Senator McNAUGHTON.—The result would be that they would not die.

Senator FASSETT.—Do you think it would be a premium upon longevity?

The WITNESS.—It might; at the same time it would affect a class of people who as a rule are not able to look after themselves, that is, infants and widows; as the operation of the law now is it enables our department, and we are obliged under our oaths to take cognizance of the property of estates as represented by the records of the surrogate's office; in many of those cases the estates are held in trust or for the benefit of infants and widows, and in some cases the estate left invested in such a way that the securities can not be changed, and no advantage can be taken of the law in that regard; as an illustration, I know that in one case quite a large estate was left in trust for the benefit of infants with directions to the trustees to deposit the money in the United States Trust Company, which at that time was paying two per cent; that property had to be assessed by our department and that estate was obliged to pay 2.22 per cent tax, which was twenty-two hundredths per cent more than the infants were getting from the estate; there is an illustration of the equity of this law.

By Senator FASSETT:

Q. But I do not think you understand my question; my proposition would be to extend the Collateral Inheritance Tax Law to all inheritances of personalty only not at so high a rate of interest, and thus, once in a century at least, personalty would pass under the law and pay its toll for the protection which it had enjoyed during the lifetime of the testator or decedent? A. Well, that might to a certain extent be a remedy; I have not given the matter sufficient consideration.



Mr. IVINS.—Such laws prevail elsewhere.

Q. Have you ever given it any thought? A. I have given it some but not sufficient to warrant me in giving a conclusion.

By Mr. IVINS:

Q. Do you know of any reason why the work of the present board of assessors could not be done by a single deputy tax-commissioner especially appointed for that purpose? A. Well, the assessors are a board that fix values; they take property and they determine values.

By Senator FASSETT:

Q. They fix it for the purpose of assessing it with the area of improvement, do they? A. They do that and I think in all cases where matters of value are to be determined that it should not be left to one individual.

By Mr. IVINS:

Q. It is left to one individual in all other cases, is it not virtually?  
A. Not necessarily.

Q. Is not the whole tax system of New York virtually left to one individual who is some one of the deputy tax commissioners? A. It is left in the first instance, but the right of appeal enables the three commissioners to pass upon values.

Q. Why should not this assessment of the value of property within the area of assessment be fixed in the same way subject to the same appeal to the tax commissioners? A. Well, that might be done in that way, but I think where it comes to the question values that it should be determined by more than one person, or that the right to pass upon it should be in the hands of more than one.

Q. The work done by the board of assessors is not one-half so important, or one-tenth or one-hundreth part so important as the work done by the board of tax commissioners, is it? A. It is not so voluminous, or so great in value.

Q. Nor so important? A. Nor so important.

Q. Why, as being the smaller part of the work of the department, should not the assessments made in those cases, that is the assessments now made by the board of assessors, be made in exactly the same way that the assessments made for general purposes of taxation are made, subject, of course, to an appeal to the board of three commissioners that now prevails in the case of general assessments, for the purposes of taxation? A. Well, the operation and the object of those two departments—you might term them departments—is entirely different; one is to determine values for the purposes of

taxation, and the other is to determine the damages; to fix the damages.

Q. They are only two different phases of the same general principle?

A. Yes, sir.

By Senator FASSETT:

Q. You can not determine damages without determining values, can you? A. Certainly not.

By Mr. IVINS:

Q. They are only two different phases of the same principle, are they not? A. Yes; but you might extend that to street opening matters, and the opening of public places.

Q. Why should it not be extended to street opening matters, and the opening of public places, and instead of appointing a number of boards, which appointments are made by the judges of the several courts, and many of which boards are now in operation, why should there not be some single individual, with a sufficient staff of clerks sworn to perform that class of duties, subject to the same appeal as to whether he has performed them well and truly to the tax commissioners, as now lies over the deputy tax commissioners to you? A. Well, it would be putting a great deal of work into one department.

Q. On how many boards of street opening or sewer commissions have you served? A. I never served upon a sewer commission.

Q. Did you ever serve upon a commission to appraise the benefits or damages for street openings? A. I have.

Q. On how many? A. I can not tell.

Q. Fifteen or twenty, haven't you? A. I should say so; more than that.

Q. More than that number? A. Yes.

Q. Twenty-five or thirty? A. Well, perhaps so; I can't state.

Q. Each of those boards is constituted of three members, isn't it? A. Three members.

Q. And what do you suppose has been the average payment made to you for services on those boards? A. It is no average; I have received a fixed amount by law.

Q. You have received a fixed amount by law I know; but what will it average in each particular case; what was the largest amount you ever realized as compensation for serving on any one of those commissions? A. Well, I think \$470.

By Senator FASSETT:

Q. For forty-seven days? A. No; it is a little less than seven cents a lineal foot; that is the fee of the commissioners; I think I served

upon one commission where I received five dollars and one cent, which took us several months and something like forty or fifty hearings, if I recollect right about it; I may be mistaken in the amount.

By Mr. IVINS:

Q. Do you not think that a large saving could be effected to the public treasury by having all of that class of work done by one permanent board? A. I do.

Q. And as one who has had very large experience in serving on such boards would you recommend provision for that work being done by a single permanent board? A. My impression is now that it would be better if you could have men of experience, trained men, and make a permanent board; that is my impression.

Q. Well, is there any reason why, assuming that the board of assessors was to be continued in existence, the board of assessors should not be made the board to do that work? A. They might be the proper men to do that work.

Q. So far as you as a commissioner of taxes know, they have ample time within which to do such work in addition to the work they now do, have they not? A. I should not suppose they would; no.

Q. You should not suppose they would? A. No.

Q. Do you, as a tax commissioner, think that their present work takes all their time? A. No; but I do not think that they would be able, in addition to their present duties, to properly attend to all the duties that might be devolved upon them as a board of street opening.

Q. They would if their staff was sufficiently full, would they not? A. No; because it depends upon the individual judgments of the commissioners rather than upon any staff that they might employ.

Q. Even then the volume of their work would not begin to be as large as the volume of work done by your three commissioners as tax commissioners, would it? A. Under the present law it would; I mean under the present law as it affects street opening matters.

Q. If it were to be thrown in on them? A. Yes, sir; because there are a certain number of days when complaints must be heard under the statute; with the law as it exists at present I do not think it would be possible for one board to attend to all the duties of street opening matters; it would be utterly impossible for them to do it; you asked me if it would not be better if they could; I think it would be better, but I think it would be a physical impossibility for one board to entertain all these street opening matters as the law exists to-day.

Q. To whom shall we appeal for the purpose of getting a record of

all of these several street opening boards that have been appointed during the past five years — is the comptroller's office the place to get that? A. The corporation counsel's office.

Q. Is there a special corporation counsel for the purpose of advising these boards? A. I think there is now.

Q. Who is it? A. I do not know his name.

Q. You do not know the present one? A. No.

Q. Mr. Perry was at one time? A. Mr. Perry was at one time.

Q. But you do not know who is now? A. I do not know who is now; I know there is one deputy in the corporation counsel's office who has charge of all those matters; he attends to all the matters before the courts, prepares all the papers, makes all the motions, and I understand advises the commissioners in each proceeding when they require legal advice.

By Senator McNAUGHTON:

Q. Does your board seek to equalize assessments between wards in your city? A. We never have since I have been in the board.

Q. Was it ever the practice? A. I do not know that it ever was; I am not prepared to say that; Mr. Feitner can answer that question.

Q. In your judgment, is the board of tax commissioners at all responsible for an assessment on real or personal property except in cases where a complaint is made?

Senator FASSETT.— As a matter of law or as a matter of fact?

Senator McNAUGHTON.— Both?

The WITNESS.— As a matter of law we are responsible where an appeal is made.

Q. I except that? A. In the question of equalization, as to how far we are justified in changing assessments, either increasing or diminishing by way of equalization, that I am not prepared to state, for the reason that that question has never come up since I have been in the department.

Q. Do you ever look into that except where a complaint is made?

Senator FASSETT.— He says the question has never come up.

The WITNESS.— The question never has come up, that question of equalization as between wards extending over a large area of property that question never has come up since I have been a commissioner.

Q. Since you have been a member of the commission, can you recollect of a single case where upon your own motion, your suggestion, you have changed the value of property, either added to it or deducted from it? A. No; I do not think I would have any right to make the change; I do not think I have any power as a commissioner.



By Senator FASSETT:

Q. You have never exercised any such power? A. I have never exercised that power; I have called the deputies' attention to what I considered perhaps discrepancies and asked for explanations, and so forth, but I do not think that our powers in that regard go any further than in the matter of suggestion.

By Senator McNAUGHTON:

Q. Nothing further? A. I do not think they do; the deputies are selected or it is assured they are selected by reason of their ability to pass upon questions of this kind.

Q. By reason of their fitness for the office? A. By reason of their fitness for the office; and we have no right to make the assessments; under the statute the deputies make the assessments subject to our revision on appeal; I do not feel that I would have a right to insist upon a deputy making a change in an assessment simply because I considered that the assessment was too high or too low. If I believed that the assessment was erroneous by reason of absolute ignorance on the part of the deputy, or if I believed that the assessment was wrong by reason of corruption on the part of the deputy, then it would be my duty as a commissioner to take action for the removal of that deputy.

Q. That is not the state of facts that I set forth at all; what I want to get at is this: If your board, as a board, are responsible in any way for assessments on real and personal property except in instances where complaint is made to you? A. I do not consider that we are; I think that the deputy himself is the responsible party.

Q. That is what I thought? A. I think we are responsible for retaining a deputy in office where we are satisfied that he is either ignorant or corrupt; but the difficulty is this: We have the power of removal, and where we should insist upon a deputy making a change in an assessment, although he might consider that the assessment ought not to be changed and that he was right and that we were entirely wrong, still I think he might be, under the pressure, induced to make that change for fear of losing his position, and for that reason I think we ought to be very cautious how we make suggestions, and I think we never ought to insist on changes being made unless I say that there was gross ignorance or corruption.

Q. Do you think it would improve the equalization of assessments if a little more responsibility was thrown upon your board? A. I do not know as it would as long as we have the general supervision.

By Senator FASSETT:

Q. I understood you to say that you did not have the supervision?

A. I beg your pardon, we do have the supervision.

By Senator McNAUGHTON:

Q. Your general supervision is confined to cases where a complaint is made? A. Where a complaint is made.

Q. So the supervision is not general; it is only specific, referring to specific cases? A. Well, the assumption is that appeals are made in all cases where a wrong has been done.

Q. Now, this brings me to this inquiry: Where you assess a party upon personal property you send him a written notice that he is assessed for personal property? A. Yes.

Q. If you raise the value of real estate, if you double it, you send the party owning the property no notice of the increase in valuation?

A. We are obliged to.

By Senator FASSETT:

Q. No; only after that increase is made upon the record? A. After the books are open we are obliged to.

By Senator McNAUGHTON:

Q. But before that, before the record is made, you notify the owner of personal property that he is assessed? A. No.

Q. I understood Mr. Coleman to say so? A. I think possibly you misunderstood him.

Q. Very likely I did? A. In personal property, after the books are opened, we send out notices; these are not legal notices; they are not notices that we are required to send out; we send them out for the protection of the taxpayer as much as anything, so that he may know what he has been assessed at on the books, and if it is erroneous he can come before us and have the change made; in the case of real property, that is not necessary, because every man knows that he is assessed; every man that owns a piece of real estate knows that that property has been assessed and that he is liable to be taken upon it; but in regard to personal property, it is different; the individual does not know that he is assessed, and the large majority of people are not assessed; a very small portion of them are assessed, and appear upon our books, and for that reason, as it is uncertain whether a man is assessed or not for his personal property, we feel it our duty to send out these notices to individuals where they have been assessed that they may have an opportunity to be heard.

Q. That works an injustice then to owners of real estate? A. Perhaps I have not made myself understood now; I mean after the books are opened, not before; on the second Monday in January the books are opened; that is, the books on real estate and the books of the personal estate; then we send out the notices to individuals; we do not send out the notices to real estate owners because they know that they are assessed.

Q. But they do not know that their assessments have been increased? A. Oh, no; they can come and see; we do not send out these notices to individuals to inform them that their assessments have been increased; we only send out notices that they have been assessed.

Q. That they have been assessed at all? A. Yes, sir.

Q. Now, Mr. Jones, we will say, lives in the twelfth ward, and he is the owner of a certain piece of real estate, and Mr. Perkins lives in the twelfth ward and is actually worth in bonds and mortgages, subject to assessment, \$100,000; now, why should not Mr. Perkins expect that you will assess him? A. He does; the assumption in law is that he does; but the belief is, that people do not know the law, and we do this to protect individuals who do not know the law; as a matter of fact, every man in New York city would, if he knew the law, come down to the department of taxes and assessment on the second day of January or days following, to examine the books, and he is supposed to do that; the books are open for the inspection of every citizen or every man who is liable to pay taxes, and it is assumed that they will come down; but as a matter of fact, they do not; very few of them will; and for that reason we take the trouble to give them notice.

By Senator FASSETT:

Q. Less than 700 last year came to make complaints for real estate? A. It was less than 700 I think; it was 680, I think.

By Senator McNAUGHTON:

Q. I asked Mr. Feitner to produce at this session of the committee, say ten applications for reductions of real estate and ten on personal property; will you see that they are all here? A. Yes, sir.

Q. Pick them out promiscuously? A. The applications for reductions of personal property are made in most instances by the individual appearing in person and being sworn and subjected to an examination and his affidavit taken; those are on record in our office.

By Senator FASSETT:

Q. All the examinations? A. All the examinations.

Q. The questions and answers? A. Not in questions and answers.

Q. But simply *pro forma*, the same in all cases, a perfunctory statement? A. There is a certain form and then in addition to that we ask them questions.

Q. But the questions you ask are not recorded? A. But the substance of the answers are recorded.

Senator McNAUGHTON.—Bring that up whatever it may be.

THOMAS L. FEITNER, recalled, further testified as follows :

By Mr. IVINS:

Q. What did you have to do, directly or indirectly, with the appointment of Mr. Perry? A. Directly I had nothing specially to do with it.

Q. And indirectly what did you have to do with it? A. Indirectly, of course, I had to do with it in voting for him in the board; directly I had nothing to do with it.

Q. What did you have to do with it before that? A. Absolutely nothing.

Q. Did Mr. Stokes never speak to you about Mr. Perry? A. No.

Q. Did Mr. Cockran ever speak to you about him? A. I spoke to Mr. Cockran; I met Mr. Cockran one day after his name had come in to our board certified to us by the civil service, and I found out then that Mr. Cockran had recommended him, and I spoke to Mr. Cockran about him casually one day, and asked him what sort of a man this Mr. Perry was, and he said he was a very good man indeed.

Q. Did you never tell anyone that there was going to be a vacancy in your board? A. I may have; I do not remember.

Q. And that an application had better be put in for the place in behalf of someone? A. Am sure we did not; we appointed him under the Civil Service Law.

By Senator FASSETT:

Q. It was a perfectly legitimate thing for you to do, if you wanted, wasn't it? A. Certainly; I would not hesitate to answer so if I did.

Q. It was part of your duty as a Tammany Hall man to help the boys to a place, wasn't it? A. It was my duty to make appointments as a board commissioner.

By Senator McNAUGHTON:

Q. It was part of your duties as a member of the board to make appointments? A. Yes, sir.

Q. It was part of your duty to fill vacancies when they occurred, if they were important? A. Yes, sir.

Q. It was important that that vacancy should be filled at once? A. Yes, sir; it was quite important.



Mr. IVINS.—Mr. Parris wants to have entered on the minutes that he does not feel any reliance on his own memory so far as concerns these specific fees that he has sworn to in the street opening matters and he does not want that to stand as in any sense absolute because he may have erred.

The committee at this point took a recess until 2.30 o'clock P. M.

AFTER RECESS.

ISAAC S. BARRETT, recalled, further testified:

By Mr. IVINS:

Q. I hand you a comptroller's report of the 31st of December 1889, at page 148, Statement K; that is the statement of taxes uncollected up to December 31 1889, is it? A. The amount uncollected.

Mr. IVINS. — I will say to the committee that we will consider that as put in evidence here, page 148 of the Report of 1889 for the year ending December 31, 1889. That shows that there was on December 31, 1889, uncollected of taxes on real estate for the years including 1888 and anterior dates \$3,485,373.

Senator FASSETT. — Uncollected?

Mr. IVINS. — Yes; on the first of January of the present year.

Q. Of personal estate the taxes uncollected were \$10,189,669; I find, however, that for the year 1889 the items real and personal are entered together in that column making the sum of \$4,107,000; what proportion of that item was personal property and what was on real property?

A. I could not tell now; it is not separated until the arrears of real estate are transmitted to the bureau of arrears on the first of June

Q. And that has been done? A. Yes.

By Senator FASSETT:

Q. What is the bureau of arrears? A. Bureau for the collection of arrears of taxes, Croton water rents and assessments.

Q. What bureau are they a department of? A. The finance department; it is really the department of the collector of assessments and clerk of arrears; the bureau of assessments and arrears; the two are consolidated.

Q. Who are these officers? A. D. Lowber Smith is the present collector.

Q. Is not he the deputy commissioner of public works? A. He used to be.

Q. Are these offices ex officio offices? A. They are appointed by the comptroller; this is one of the bureau of the finance department.

By Mr. IVINS:

Q. I ask you to prepare a statement showing the amount of personal taxes which had been written off the books during the past ten years, and showing the amount of personal taxes uncollected on the first of October of the present year? A. Yes, sir.

Q. This is your statement [handing witness paper]? A. That is a statement I had prepared.

[Statement offered in evidence by Mr. Ivins and marked Exhibit 1 of this date and inserted at the end of this day's testimony.]

Q. This statement shows that in July of 1882 there was written off the books of the city of sums due to the city for personal taxes \$1,634,670? A. Yes, sir.

Q. That is correct from your books? A. That is correct from the books, yes sir.

Q. It shows that on the 31st of January, 1888, there was written off of sums due to the city for personal taxes \$5,411,649? A. Yes, sir.

By Senator FASSETT:

Q. Written off from taxes due?

Mr. IVINS.—Due, yes, sir. I will come to the reason of that in a minute.

By Mr. IVINS:

Q. Showing that there was written off in the aggregate in the years 1882 and 1888 \$7,046,365 of taxes on personal property which had been uncollected? A. Yes, sir.

Senator McNAUGHTON.—Assessed properly.

Mr. IVINS.—Personal property, not real estate.

Senator McNAUGHTON.—I say assessed properly.

Mr. IVINS.—Properly assessed, and where the propriety of the assessments had not been contested, but where the taxes were simply uncollected.

The WITNESS.—And uncollectible.

Q. And uncollectible as far as it was possible to discover their collectibility through the ordinary proceedings of the office. A. Yes, sir.

Q. What is the provision of law in regard to writing off these claims of the city against such persons so apparently owing taxes? A. A personal taxes that remains uncollected and apparently uncollectible for twenty years is considered to be absolutely outlawed, and you will notice that the taxes that are written off there are twenty years or more past due.

Q. They are all written off then on the basis of a twenty years' statute of limitation? A. Yes.

Q. The result is that the \$1,634,670 written off in July of 1882 was taxes which had been levied more than twenty years prior to that time? A. Yes, sir.

Q. So that that sum included the unpaid personal taxes for the years 1852 to 1861 inclusive? A. Yes, sir.

Q. And the sum written off on January 31, 1888, being \$5,411,694, included the personal taxes which had been levied between the years 1862 and 1871 inclusive. A. Yes, sir.

Q. Now, you state here that the personal taxes uncollected October 1, 1890, are \$6,306,790? A. Yes, sir.

Q. That shows the figures as they ought properly to have been shown provided this item at page 149 of the comptroller's report had been divided? A. Yes, sir; at that date; you will find in those items there is scarcely a change, as in the earlier years no change at all in the amount occurred that are outstanding there.

Q. And those amounts outstanding have stood virtually at the same figure year in and year out? A. There was no change for years; in fact a personal tax that is two years old you can consider as practically worthless; the uncollected personal taxes, take the aggregate, are not worth one-tenth of one per cent on the aggregate; take taxes uncollected after two years and I would not give one per cent on the amount that were for two years uncollected.

Q. I asked you to prepare a statement of the amount of assessments that had been confirmed from 1880 to date? A. I didn't bring it down to date.

Q. To 1889 inclusive; have you done that? A. Yes, sir.

Q. I asked you also to prepare a statement showing the extent to which assessments had been vacated from 1880 to 1889, inclusive? A. Yes, sir.

Q. And this is the statement [handing witness paper]? A. Yes, sir.

Q. And transcribed from the books? A. Yes, sir.

Q. And it is correct? A. Yes, sir.

[Paper offered in evidence by Mr. Ivins, marked Exhibit No. 2, of this date, and inserted at the end of this day's testimony.]

Q. This shows that during the ten years from 1880 to 1889, the amount of assessments confirmed were \$12,782,159? A. Yes, sir.

Q. That the amount of assessments vacated was \$4,121,779? A. Yes, sir.

Q. It thus appears that during this period the amount of assessments vacated was one-third of the entire amount of assessments confirmed or its equivalent? A. Yes, sir; but it should be said, in justice, that

those which were vacated were a very small proportion of those which are confirmed.

Q. Of those which are confirmed at this particular time? A. Yes.

Q. The statement, however, shows on its face that as against \$12,000,000 there were \$4,000,000 vacated? A. Yes, sir.

Q. Although they don't necessarily refer to assessments made at the same time or for the same purposes? A. Not at all.

Q. In view of the fact that there are \$6,306,790 of personal taxes uncollected, and in view of the fact that the expenses for the support of the government for the past ten years have been made upon the theory that those taxes would be collected and would meet those expenditures, how is the deficiency arising from the non-collection of those taxes made good? A. There is an amount applied year by year in the tax levy; an amount is raised year by year in the tax levy for the supply of such deficiencies; you will see it from that statement; that is a ten year's statement; you will see the amount that has been raised year by year for the supply of those deficiencies.

Q. This is Statement G. inserted at page 143 of this same comptroller's report? A. Yes.

By Senator FASSETT:

Q. How are those made—by the issuing of bonds for these deficiencies in taxes? A. No; for instance the amount, as it will be shown here—I can illustrate it here—take for instance, for last year, the total appropriations—the total budget would amount to only \$30,000,000, but they added \$764,000 to supply deficiencies, so that the total amount of taxes raised actually was \$30,345,000.

Q. In making your levy you estimate this deficiency? A. Yes; the possibility of this deficiency.

By Mr. IVINS:

Q. You add to the budget of each year something to make good the deficiencies of the budgets of past years? A. Yes.

By Senator FASSETT:

Q. What you add is not the figure that you expect to be short, but the figure which you have been short on the year previous? A. No; it is not fixed in that way; it is not a fixed amount year by year; it is usually an amount put in to make a round rate; for instance, the rate his last year was 1.97; the exact rate would be, for instance, 1.93 and a great big fraction; it is to avoid that, to make an even fraction that they put in a sum; it must not exceed three per cent of the amount of the levy, of the amount to be raised.



EDWARD GILON, being duly sworn, testified as follows:

By Mr. IVINS:

Q. What office do you hold? A. I am a member of the board of assessors.

Q. Are you president of that board? A. Chairman of the board.

Q. How long have you been in the board? A. Since the 1st of July, 1885.

Q. How long have you been chairman of it? A. All of that time.

Q. Will you now generally describe to the committee the functions and duties of that board? A. The functions and duties of the board of assessors under the law are to make and apportion the assessments upon all the real estate and property that is affected by the improvements that are made in the city of New York, such as regulating and grading streets, paving the same, building and making alterations to sewers, and all other improvements of a general character that may be passed by the board of aldermen of the city of New York.

Q. When you say all other improvements of a general character, what do you mean by that? A. Well, any other improvements of that particular character such as you will find specified in the law; some of them now have become obsolete, such as making wells and erecting pumps, and all those things, that in parts of the city have now become obsolete, and still they can be retained in the health department, and again such as dredging the slips in front of private property by the city of New York, which also comes under the purview of the board of assessors.

By Senator FASSETT:

Q. Your authority comes exclusively and entirely from the Consolidation Act, doesn't it? A. Entirely; you will find it all embodied in the Consolidation Act, beginning at section 865, which is a continuation of laws that have been on the statute books since 1787.

By Mr. IVINS:

Q. How many subordinates have you in your office? A. We have one secretary.

Q. None other? A. No, sir; not at present.

Q. What does your secretary do? A. The secretary does the general duties attached to the office; he keeps the record of the minutes and attends to such other duties as the board may assign him to do; for instance, he assists in making and apportioning assessments.

Q. Doesn't he do the major part of the work in making and apportioning the assessments? A. No; he does not, sir.

Q. Who does? A. The board and all together do their share.

Q. Acting as a board? A. Acting as a board; yes, sir.

Q. You say he keeps the minutes? A. Yes, sir.

Q. What do the minutes of the board show, generally speaking?

A. The transactions of the board at their regular meetings.

Q. And what part of the transactions — how far in detail? A. Such as before the board comes up; for instance, when assessments are received —

[The witness then directed Jasper to bring over to the committee the minute book of the board.]

Q. How much of the secretary's time does it take to keep the minutes?

A. It does not take a great deal of the time to keep the minutes; the whole of that could be done in half an hour after the board has discharged its duty in that respect.

Q. Does the board have stated meetings? A. Yes, sir.

Q. How often? A. They meet regularly on every Thursday, and as often as special meetings may be required by the exigencies of cases that may come up before them in the way of giving hearings to lawyers who may appear, and to others under the law.

Q. What are the days that the stated meetings are called for — on Thursdays? A. Thursdays, at 11 o'clock.

Q. How long do those meetings last? A. They last various times, according to the amount of business that may come before the meeting.

Q. Does it sometimes last until 12 o'clock? A. Sometimes they last until 3 o'clock and half-past 3, and some as late as 5, I have known them to last.

Q. In how many cases have you known the stated sessions to last as long as 5 o'clock? A. There are not many instances of that kind.

Q. Not over two or three of that kind, are there? A. There may not be over two or three.

Q. Isn't it a fact that your meetings usually last from about 11 o'clock to 2 o'clock? A. It is a fact that it takes about that length of time.

Q. One afternoon of the week? A. One afternoon of the week; that is to say where there are not special meetings held.

Q. How many special meetings have there been in the last year? A. I don't remember; the minute book will show.

Q. Do you suppose there have been half a dozen? A. Yes, sir; a great many more than half a dozen; I suppose there were three times a half dozen.

Q. You suppose there must have been eighteen? A. I think so; it is no smiling matter, Mr. Ivins.

Q. Who calls those special meetings? A. The board calls them generally before they adjourn at the meeting previous to their being held.

Q. Then, in reality, these special meetings are adjourned meetings? A. They are generally adjourned meetings.

Q. Do the minutes show what was the occasion of the adjournment to a special meeting? A. They will.

Q. Is all of your business conducted by the board distinctively as such, that is upon motion and vote? A. With reference to what?

Q. Whatever business comes before it? A. It is generally done by a vote, whatever business comes before the board at their meetings.

Q. What do you do personally as a member of that board; just describe generally what you do; take any one particular case? A. The duties that I have discharged there as chairman of the board are first, all matters that come in the office in the way of objections to any assessments that may be apportioned by the board, and all others who are making inquiry in relation to matters regarding assessments.

Q. Those come in during your office hours, I suppose? A. Yes, sir.

Q. What are your office hours? A. From 9 to 4.

Q. Are you there from 9 to 4 every day? A. Almost every day, and I have been there as late as 7 o'clock at night.

Q. These complaints and correspondence and matters of that kind come in to you during your office hours? A. Yes, sir; that is part of it.

Q. What do you do with the complaints and correspondence? A. They are filed with the matters that they relate to and come before the board for their action.

Q. When those matters come up? A. Yes, sir; in addition to that I do my share of the apportionment of the assessments, and, in fact, I have a general supervision over all the assessments that are apportioned by the various members of the board to see that they are correct, and a part of the duty of the board is to correct the assessment if any corrections are required when the assessment is received in the office; they must be compared with the tax maps and tax books in the tax commissioner's office in order to see that the proper ward and block numbers are on the diagrams that are attached to the assessment-list; that of itself is a great labor requiring considerable time, and you will notice a great deal of attention must be given it in order that it may be correct, because were it not correct and an assessment were levied against a piece of property that hadn't the proper ward and block number attached thereto, it would to a certain extent almost invalidate the assessment against that piece of property.

Q. As a matter of fact many assessments have in the past been invali-

dated through carelessness in such way as to require the utmost care to prevent the recurrence of that sort of thing, have they not?

A. Not on the part of the board of assessors —

Q. I say carelessness generally; I don't characterize it in any quarter. A. There has not been an assessment vacated in ten years by neglect or carelessness or negligence on the part of the board of assessors; almost every assessment, in fact I believe the whole of the assessments that have ever been vacated, have been vacated in consequence of the negligence on the part of the department under which the work was performed.

Q. That is it might be the department of public works? A. Yes; it might be the department of public works.

Q. Or the department of parks.

By Senator FASSETT:

Q. Or the department of docks? A. Or the department of docks; very little, as a matter of course, comes from that; there is only one assessment-list in probably fifteen years has been received by the board of assessors from the board of docks, and it is enjoined especially in the Consolidation Act there that work of the nature just described, such as dredging out of slips in front of private property should be assessed the same as other property.

By Mr. IVINS:

Q. When you say that you assist in the matter of getting out the assessment-list, as I understand you to say— A. Yes, sir.

Q. What do you mean by that? A. If I had a few of the assessment-lists here I could show you; but I presume you know what they are; they are a detailed statement of the property that is affected by the improvement and the pieces of property on the assessment-list will run sometimes from fifty to 10,000; we have an assessment-list now in the office that includes about 10,000 pieces of property.

Q. Which one is that? A. It is an assessment for an improvement to an outlet to a sewer.

Q. What is it known as? A. As the West street outlet.

Q. Is the Brook avenue sewer assessment still in the office? A. I was just about speaking to you in relation to that; we have just got through with that Brook avenue sewer and had it confirmed after a hot contest for several years; that embodied some 9,000 pieces of property; all these had to be compared with the tax maps, and I did all that labor myself.

Q. You did that personally? A. Yes.

Q. In detail? A. In detail.



Q. Piece by piece? A. Yes.

Q. Assisted by the secretary? A. No.

Q. Entirely alone? A. Entirely alone.

Q. You could have saved time if you had been assisted by the secretary, couldn't you? A. No; because you can't very well have two people handle one book.

Q. Can't two people check off a piece of work of that kind better than one? A. Not very well.

Q. Did the other assessors assist you in that? A. Not in that particular duty; no, sir; they were discharging their duties devolving upon them at the same time.

Q. Were they checking other 9,000 plot pieces? A. No; they were apportioning the various assessments in the office.

Q. What do you mean by apportioning assessments—you have used that phrase once before? A. I will describe the whole *modus operandi* of the thing for you.

Q. That is what we want? A. In the first place the department upon whom devolves the completion of the improvement that has been passed by an ordinance of the common council and ordered by an ordinance of the common council, proceeds to advertise and contract out the work; after it is done they then make up an assessment-list showing the various pieces of property that have been affected by the improvement, benefited by it; to that is attached under the Consolidation Act the certificate of the commissioner of public works or the members of the department of parks, as the case may be, they having charge of the twenty-third and twenty-fourth wards, the improvements there; they are required to give a certificate to the board of assessors, that certificate showing the whole cost of the work, the various parts of it; for instance, we will take that for the building of the sewer; the various items that have entered into the contract are shown on this certificate, the cost of the rock excavation where rock had to be excavated, the cost of the building of the sewer per foot is shown, and all those items are given in this certificate that we received from the department of public works or the department doing the work.

Q. The result of which certificate is to show the aggregate sum which has to be assessed over the entire property? A. Exactly; and with that certificate comes a detailed statement of the various pieces of property that are benefited by that improvement.

Q. Who makes that detailed statement? A. That I was just going to tell you; that detailed statement is made out under the purview of the board of assessors by the surveyor or engineer in the department.

Q. In the department which has certified the work? A. Yes, sir; they are required under the law, you will observe, particularly relating to sewers — if you will turn to section 300, and to something relating to the department of public works, you will find it; it is the law of 1865 relating to improvements; you will find there that under that section of law the department of public works is charged solely with the improvement of all the sewerage districts in the city of New York and the building of the sewers in the various districts; they are required after they have completed their work to supply the board of assessors with this certificate of the cost and with a diagram showing the various pieces of property affected and giving a detailed statement of the whole.

Q. If you will excuse me a minute, that is section 326 of the Consolidation Act? A. Yes, sir; that is it.

[Mr. Ivins then read in evidence sections 326 to 329 inclusive of the Consolidation Act.]

Q. That certificate comes to you showing the entire amount of work, and it also comes to you showing the territory over which the assessment is to be spread? A. Yes, sir; read the other part there and you will see where it explains it.

Q. It is not necessary to go further for that just now? A. It is only to show that they are officially required to supply the board of assessors with it.

Q. He is officially required to render these certificates to you? A. Yes.

Q. When you say apportionment of assessments you have before you the certificate of cost and the description of the property?

A. Very good; if you will allow me to continue I will give you the whole story and then you can question me just as much as you please.

Q. All right go on. A. After this is received, this detailed statement required by law to be supplied by the department doing the work they are then required also in accordance with the Consolidation Act which is part of chapter 550 of the Laws of 1880 — the comptroller is then required to supply the board of assessors with a certificate of the interest on the money that has been advanced from time to time to the contractors from the beginning of the work, from the first payment that they have made up to the conclusion of the whole thing, and to extend the time of the making up of that interest to a period of sixty days in advance of the date of this certificate; that is supplied to the board of assessors also before they can proceed to make out this assessment-list; the manner in which we receive that certificate is by transmitting the assessment-list after it has been

received from the department doing the work to the comptroller's office; the comptroller's office then proceeds as soon possibly as it can, although sometimes considerable delay takes place before we receive it back, but he proceeds then to give us the certificate containing the amount of interest that he has to receive for the money that he has advanced to the contractors from the beginning of the work up to a period of sixty days beyond the time when he signs that certificate for us; that we receive, and that amount we add to the amount of the certificate that we have received from the department doing the work, and then the whole of those added together is apportioned according to the benefit that the board of assessors may consider each piece of property along the line of the improvement has received; and as a matter, of course, if any attention will be given to this matter, you will find that this is not a work that can be perfunctorily done; it is not a work either that a single individual can attend to, because after the comparison then is made, after the assessment-list has reached this point, then it has got to be compared with the tax commissioners' maps and books in order to see that the board has received from the surveyor or engineer who has supplied us with these maps and assessment-list — in order to see that they have given them to us correctly, because as I stated to you before, a single error which occurs very often might invalidate the assessment against a particular piece of property, because we will find that the surveyors will make a mistake and instead of giving us what is known as the ward number they will give us the assessment map number, which is an entirely different thing, and they are distinguished by the colors, as a matter, of course, of ink that is used; that has got to be compared then by the board of assessors faithfully with the records that are in the office of the tax commissioners; after that has been done and the corrections made if any are necessary, then the work of apportionment begins of distributing the amount of the total cost of this work among the parcels of property that have been benefited by the improvement; no doubt with your experience in examining the tax-maps you may have noticed that the size of lots of ground in the city of New York varies very materially. Some of them will be rectangular in shape, some of them will be triangular in shape, and in fact there is not a form known to geometry but what you will find in the assessment-list and on the tax-maps here describing pieces of property; therefore, it is necessary that not only one individual but two or three individuals will say to themselves "how shall this and that piece of property be assessed, having these particular forms; what is the amount that that shall be assessed per foot front?"

Q. Do you think it requires a triangular board to assess a triangular piece of property? A. It is a quadrangular board if, you please, and I think that a quadrangular board under the law is better than a triangular one, because we were a board of three at one time, and the Legislature in its wisdom saw fit to make it four; the manner in which the property is generally assessed for these improvements is according to its foot frontage, and you will observe that it is very easy if you meet with a lot or a rectangular piece of ground, a simple parallelogram twenty-five by 100, to say that that shall be assessed twenty-five foot front; but if you come to a piece that is of an entirely different form, that will only have a frontage on the street say of three feet and will run back and spread out probably and be 150 feet in the rear, it is not so easy.

By Senator FASSETT:

Q. Is it the mathematical calculation that is difficult or the question of judgment? A. They are both difficult; it is a question of judgment then.

Mr. IVINS. — Is not that done on a basis of calculation?

The WITNESS. — Undoubtedly, when we have established the benefit that that particular piece of property has derived per foot, then it is put down as so much front foot that it has been benefited.

Q. The mathematical calculation is second; you first determine how much it has been benefited and then you distribute that over the area? A. Yes, sir; for instance, of that piece of property there with that narrow frontage, supposing we say that that instead of being assessed three feet, because of having a wide rear must be benefited more than its narrow frontage, and I may consider that that is benefited five feet front, my colleague may say "no, I think that ought to be seven feet front," and the other may say "I think the benefit derived from that improvement is much more than that; he might put up an elegant large house on the rear of his property and he has got an opening there; he has got an opening to put a sewer in; he has got an outlet to his property and he has derived just as much benefit from that improvement as the man who has twenty-five feet front, and I think he ought to be assessed fifteen feet."

Q. It is a question then of good judgment? A. It is a question of good judgment, and the law recognizes that the board of assessors is a judicial body, and they must act as such, and that is where the judgment of more than one person must come into play; now, after that has been done, and the number of feet front that each particular piece of property has received, according to the judgment of



the whole of the board is determined, we make the apportionment and then an assignment of that particular assessment-list is made to one of the members of the board, because they all can not work on one piece, and more particularly where there are fifty or sixty pieces in the office, and where they are all officially engaged in doing the same thing after this particular period in the history of the assessment has been reached.

By Senator McNAUGHTON:

Q. Why wouldn't it be a good plan to have a common law jury pass upon these assessments? A. We have; that is where it came from; in 1787 the board of assessors was a common law jury of five, selected by the sheriff and reported to the mayor's court.

Q. A common law jury consists of not less than twelve? A. That was the origin of the board of assessors down to 1843, when they became a part of the street commissioners' office, and were known as the bureau of assessors; then they were three after that from 1843 down to 1857; then they were in that condition as a bureau in the street commissioners' office; then in 1857, and I strike the point then that I believe has been struck here yesterday; in 1857 the Legislature took away the board of assessors from the bureau of assessments and put it into the tax office; it designated that, in the tax office, there should be three deputy tax commissioners for the purpose of discharging the duty that devolved upon the bureau of assessments and street commissioners' office, and it added the three tax commissioners by the by, also, making a board of six that in that tax office at that time were to attend to the duties devolved upon the original board of assessors; that was found to be incapable of working properly; the assessments were delayed; they were not attended to; they were rolling up; the city was losing interest all the time, and the consequence was that in 1859 the Legislature abolished them, repealed the act of 1857 and established the present board of assessors, and they have been in existence ever since; then the apportionment is made of the assessment in the manner in which I told you, each member of the board assuming his share of the duty and making up his assessment-list; and here I may say that the secretary, as a matter of course, is performing the same duty when he is not attending to the board and writing up the minutes of the board; that is the duty that he attends to at other times.

By Mr. IVINS:

Q. Does each assessor go over and check off the work of each other assessor? A. They are generally referred to the chairman

for that purpose, and there is no assessment that has been apportioned until it has been assigned to the member of the board in the manner in which I told you after the number of foot frontage has been established; then the member of the board performs this clerical duty of making the apportionment; there is a certain number of feet, and it is so many dollars and cents per foot, and he makes his calculations and carries out the figures on that particular piece of property.

Q. Who checks the secretary's figures? A. Which figures?

Q. The calculation? A. The figures that he makes in the apportionments that he makes?

Q. Yes. A. They generally will be referred to the chairman of the board for that purpose.

Q. Do you actually go back and check off his figuring? A. I do to a very great extent.

Q. Suppose Mr. Haverty or Mr. Cahill, either of them were to be working on the apportionment of an assessment and had completed their work, would Mr. Wendt take up Mr. Haverty's work and go over it or would Mr. Cahill take up Mr. Haverty's work and go over it or would Mr. Haverty take up Mr. Wendt's work and go over it? A. No, sir; it wouldn't go down to that particular form; either the secretary would check off the work or I would check it off to see that it is correct.

Q. And if neither you nor the secretary found any fault with it or complained of it then it would be formally passed by the board without any further discussion? A. No, sir; not yet if you please; after this has been done then under the law we are required to advertise it for thirty days in the *City Record*; that is the form of the advertisement [producing paper]; here are some thirty-five or forty lists or more advertised.

Mr IVINS.—The witness refers to lists advertised in the *City Record* on September 17, 1890, at page 3,111.

The WITNESS—After this apportionment has been made it is then directed to be advertised in the *City Record* and is advertised for ten days in the *City Record* at least; the law requires it to be advertised ten days; sometimes if we have spare room we will put it in for twenty or thirty days; but we must hold it after the apportionment is made for thirty days, for the examination of all the citizens who may be interested in the improvements.

Q. And after they have examined it what happens? A. They are required, if they so desire, to make objections to the assessment, and they are required to send it in to the chairman of the board their

objections in writing; after the lapse of thirty days then the assessments that have been advertised are taken up at the subsequent meeting of the board at the expiration of the thirty days, and if there are any which there are no objections to they as a matter, of course, are passed by the board and transmitted to the comptroller or to the board of revision and correction of assessments for confirmation; those that have objections to them the objectors appear if they so desire and orally specify what their particular objections are and they have a hearing and after they have had their hearing the board considers whether there objections are valid or not; if they consider them to be valid they immediately revise their assessment, readvertise it and hold it again for thirty days longer.

Ques. Q. Then they sometimes revise the revision? A. Sometimes there may be a necessity to revise the revision, but very seldom is that the case; without a new objector appears there is seldom if ever more than one revision on the same objection; but after it has been advertised the second time a new objector may appear, and as a matter, of course, he must have his hearing and his day in court as well as anybody else; and if his objections be deemed to be valid by the board, as a matter of course they would be in duty bound to correct their assessment from the light that they would receive from the objection that he would make.

Q. And in the meantime the city is losing interest? A. In the meantime the city would be losing interest after the sixty days that the comptroller dated his certificate, after that date the city would be losing interest.

Q. Let us go right back to that certificate on that point; when that certificate is filed showing the cost of the work and supplemented by the certificate showing the interest to date, that is the final amount that is to be levied on this property, is it not? A. That is the final amount.

Q. And that amount is never increased? A. It can not be.

Q. What was the amount in round figures covered by the Brook avenue sewer assessment? A. About seven hundred thousand and odd dollars.

Q. How long did that lie in your office? A. From the last time it was received in the office, I think, it must have lain in the office after that two years.

Q. Two years on the last occasion? A. Yes.

Q. Now, prior to that on the first occasion how long had it been there? A. There is quite a history attached to the Brook avenue sewer.

Q. Do you remember the date of the certificate of cost of the Brook avenue sewer? A. To the best of my recollection I think it must be 1883; the Brook avenue sewer assessment-list was first received by the board of assessors at a time when the Legislature had ordered and required the department of parks to make new maps for the twenty-third and twenty-fourth wards; they had proceeded in the discharge of that duty to a considerable extent; the consequence of their so doing was that when the Brook avenue sewer assessment-list was in the office of the board of assessors they had sent with that assessment-list maps that did not correspond with the maps that were in the tax commissioner's office.

Q. Whose fault was that? A. The department of parks.

Q. Now, let us get that date if possible; is this correct at page 152 of the last report of the tax commissioners in the report of 1890 "received from the department of public parks No. 2330, Brook avenue from tide water to a point on One Hundred and Sixty-fifth street sewer, received June 17, 1886"—is that the second time or the first time? A. Which is this?

Q. This is the Brook avenue sewer; is that date June 17, 1886, the first or second time? A. I think that is the last time.

Q. Hadn't it been in the office four or five years prior to that date? A. I was about to explain to you that in consequence of the description of the pieces of property being the old village numbers—the twenty-third and twenty-fourth wards are made up of half a dozen old villages, and there were no other maps extant excepting the maps that were filed at White Plains, and which the tax commissioners had copies of here that they were using, and the department of parks, the engineers of the department of parks were compelled to use those old village numbers to describe the pieces of property; when it came down to the office of the board of assessors, the tax commissioners had always proceeded, to a certain extent, in giving new members to the property in the twenty-third ward; consequently when we attempted to compare the maps of the Brook avenue sewer with the maps in the tax commissioner's office, they didn't compare at all, because they were entirely different numbers; therefore we couldn't receive an assessment list in that condition; we transmitted it back to the department of parks, stating that they would have to make this correction; the department of parks received it, and when they felt inclined, they informed the board of assessors that they had no money for the purpose of correcting those maps, and they held it for a long time.



Q. A year? A. I presume that they did; I am now giving you a part of the history of the office previous to my incumbency; previous to my time.

Q. You went in 1885? A. Yes, sir; and finally they sent the Brook avenue sewer assessment-list—it was in two volumes—they sent it down to the office, and they sent it down partially corrected, and only partially corrected, so much so that finally, in order to get it out of the office, I had to discharge this duty that I am just informing you about, having had to attend to it personally, and go over and insert on the maps that had been provided by the department of parks, the ward and block numbers of the pieces of property that were included in the assessment list.

Q. Now, first and last, this Brook avenue sewer assessment has been following around from pillar to post, from department to department, for about ten years, hasn't it? A. Seven years, I think.

Q. For seven years? A. I think that the certificate was signed by the department of parks in 1883.

Mr. IVINS.—Well, I call the attention of the committee to this fact, the total amount of the assessment was \$441,000. The witness says that that has been now delayed for seven years.

By Senator FASSETT:

Q. Is it just completed? A. It was confirmed, I think, about three months ago; we received it in 1886.

Mr. IVINS.—At a five per cent interest rate alone, that shows a loss to the city because of the failure to have got that assessment levied, of \$154,000 in one item.

Senator FASSETT.—One-seventh of the cost of the sewer?

Mr. IVINS.—Oh, no; that is much more than one-quarter of the cost of the sewer. The loss in interest alone, is much more than one-quarter of the cost of the sewer.

The WITNESS.—That was caused principally by the objections that were made to the work by the property owners and certain lawyers on their behalf. We transmitted that assessment-list to the board of revision I think at least three times.

By Mr. IVINS:

Q. Can you suggest any means whereby the recurrence of that sort of thing can be prevented and the city not lit out of its money, because, as a matter of fact, the city has spent the money and it seeks to recover the money so spent from the property owners benefited? A. The city has spent the money, but you understand that the principal

cause of the whole of this delay was simply in consequence of the disarranged condition of the tax commissioners' books?

Q. In the first instance? A. Yes.

Q. But not since 1886? A. Not since 1886.

Q. Consequently, we have got four years since 1886? A. Excuse me—yes, since 1886.

Q. Why? A. They were continuing the making of those maps, and the consequence is that as they continued to make the maps and filed their maps in their office, just so were there changes being made in the assessment-list, because this improvement extended from the Harlem river to a place known as Gun Hill Road, nearly to the northern boundary line of the twenty-fourth ward, and it took in the whole of the center of the new territory of the twenty-third and twenty-fourth wards; therefore constant changes had to be made as they were examined from time to time in the tax office, and we found that these changes had to be made and these new maps filed, and that alterations and changes had to be made in the assessment-lists and had to be made on the diagram accompanying the assessment-list; why it was a work of enormous magnitude; you ought to have it here before you, the volume of maps alone is thicker than this book here and the assessment-list is two volumes.

By Senator FASSETT:

Q. Those had to be made expressly for this one business? A. Yes; and then again the difficulty was that they were made on so small a scale, the territory being so extensive, the territory over which this improvement extended, the engineer drawing the maps for the assessment-list drew them on an exceedingly small scale so that there was hardly a change to make any entries on it.

Q. Do you know how many more years it has taken to get this assessment levied than it took to lay out the work and execute the sewer? A. No, sir; I am not aware of that.

Q. Hasn't it taken quite as long, if not longer, to get the assessment levied, than it took to construct the sewer? A. Well, I have no doubt that is the case; but a great deal of the trouble is the fault of the park department.

Q. I am not imputing the fault to your department; the history of it began long prior to your incumbency? A. I understand.

Q. Don't get the notion, Mr. Gilon, that I am making any attack upon you in the premises? A. Oh, I know that; but I am only trying to give you the history of the thing and show you where the fault lies.

Q. Now, what is the present condition of it? A. It is confirmed.

Senator FASSETT.—Three months ago, he said?

The WITNESS.—Yes, sir; it was confirmed three months ago, about.

Senator FASSETT.—By what court?

Q. It was hurried up a little after this committee called attention to it in March, wasn't it? A. No; there was no hurrying up to it at all; for example, it was required to go through a certain formula; we sent it to the board of revision three times, with a mass of objections that was more than a foot square, and all those objectors appeared before the board of revision from time to time, and in many instances the board of revision—the principal objection that the objectors made to it before the board of revision, was that the maps of the thing did not correspond; we would take and make our apportionment; we would revise our maps, and revise our list and hold it for thirty days; after the thirty days we would transmit it to the board of revision; then these people would appear before the board of revision, and their principal objection would be that the maps accompanying the list were not correct.

Q. Who constituted that board of revision? A. The comptroller, the recorder and the corporation counsel.

Q. That is the board of which Mr. James Martin, now president of the police board, was for a long time secretary? A. No, sir; that was another board that is out of existence now; that was the assessment commission; the assessment commission was established by the Legislature in 1881, for the purpose of taking all the old assessment-lists that were laying in the office of the comptroller, and upon which moneys could not be collected, in consequence of defects therein; and they appealed to the Legislature, and the Legislature passed the act in 1880, giving authority to this assessment commission, which was composed then of the mayor, the comptroller, the president of the board of alderman, and two citizens.

Q. Which two citizens were Mr. Lord, and some one else? A. Yes, sir; they were appointed, and they were expected to get through with their labors in one year; the law under which they were created gave them one year to perform this duty, and they were six years in existence; they had to go every year to the Legislature to get their time extended.

By Senator FASSETT:

Q. Because there was so much work to do, or because they were so slow in doing it? A. Well, I don't know; they had considerable to do; they had nothing to do but to hear these objectors; when you come to add to the fact that the board of assessors have to make the

assessments and to compare them with these maps, why you can readily see what a great deal more work we have to perform.

By Mr. IVINS:

Q. Are you willing to have your work as done by the board of assessors now compared and measured up by the work of that now defunct commission, taking the latter as a standard? A. Why, my dear Mr. Ivins, there isn't a comparison to the amount of work done by myself and it.

Q. I grant you that? A. I have only given you a very short sketch of what the board of assessors have done; you must not imagine that their work is confined solely to raising the assessment-lists from the department lists, and then making this apportionment, though that of itself is considerable labor.

Q. Now, Colonel — A. [Interrupting] Mr. Ivins, I beg your pardon; if you want to get at the history of this, let me continue.

Q. But isn't it a fact that this old board dragged along six years simply because it did its work with phenomenal slowness; had only occasional meetings, and sought extension after extension after its term of office had expired? A. That commission was not appointed to act upon assessments then coming in, you understand; only the old assessments that had been standing.

Q. Well, let us get rid of that, then; we don't want any more about that.

Senator FASSETT.—That board is dead; we can not reform them any, even if we would.

Q. Now, I want to ask you about some other assessments, specifically? A. If you will turn to the Consolidation Act, section 890, you will see where the duty devolves upon the board of assessors when they require the regulating and grading of a street—wherever a change of the grade takes place—you will see that the duty then devolves upon the board of assessors to make an award for damages to any improved property or unimproved property—

Q. [Interposing.] Do you think your fellow assessors realize what hard worked men they are? A. Well, I presume they do; I am endeavoring, Mr. Ivins, to relieve you of probably an idea that you may entertain that the board of assessors do not discharge any duty; I say to you, sir, here emphatically that there is not a class of officials in the city of New York that do more work and at less expense to the city of New York than the board of assessors.

Q. It is not fair to presume anything about the contents of my mind, I assure you.



Senator FASSETT.—I suppose the witness thinks it is always wise to rebut any presumption.

The WITNESS.—Now, the present board took office on the 1st of July, 1885; we found 200 assessment-lists then in the hands of the board.

Q. Now, let us stop there a moment? A. One minute, if you please.

Q. Let us take some of those 200 assessment-lists? A. Let me go on and tell you what I wish to convey to you, and then you can question me just as much as you please; we found on hand then 200 assessment-lists; there were received in 1886, sixty-two; in 1887, 314; in 1888, 244; in 1889, 224; in 1890, up to the present date, 248.

Senator FASSETT.—A mere number of lists isn't a good criterion, is it?

The WITNESS.—The amount of all those assessment-lists that have been apportioned and acted upon by the board of assessors during that time was \$11,834,239.18; that has cost the city of New York for the support of the board of assessors the sum of \$14,800 a year—say \$15,000 in round numbers—making \$90,000, if this was a complete year, which it is not until the 1st of July, 1891; but we will say for the sake of the argument that it would just cost four mills on the dollar, the expense that the board of assessors has been in confirming those assessment-lists; I wish to state also that if you take the previous six years, from 1879 to 1884, you will find that the amount of the assessment then confirmed was, \$5,311,000—

By Senator FASSETT:

Q. [Interposing.] Does it take longer to determine a five million dollar matter than it does a five hundred thousand dollar matter? A. Yes, sir; because, you understand, here is the labor; here are a great number of pieces of property.

Q. Supposing the \$5,000,000 matter only involved ten pieces of property? A. Well, that can not occur in an assessment-list—at least, it doesn't.

Mr. IVINS.—This paper that you have referred to, I will have marked in evidence.

[The paper referred to by the witness is marked Exhibit 3, and appears at the end of this day's proceedings.]

The WITNESS.—Now, after we have made this apportionment, and acted upon it, we transmit it then to a board known as the board of revision of correction and assessment, composed of the comptroller, the recorder and the corporation counsel. They have authority under the law to confirm the assessments, or send it back to the board of assessors for revision.

By Senator McNAUGHTON:

Q. Is that the board that financially confirms it? A. Yes, sir; then it becomes a lien upon property; they have the power to send it back to us for revision when they hear the objectors that appear before them.

By Mr. IVINS:

Q. You say that you have assessed \$11,834,239.18 in six years, appearing in this statement? A. Yes, sir.

Q. And you say that that has cost \$14,800 a year? A. Yes, sir; in round numbers, \$15,000.

Q. Some of these have been long jobs, haven't they? A. Yes, sir; we found some in the office that had been in the office a long time; there was one or two, or perhaps more, that probably were in the office ten years.

Q. That \$11,834,239.18 stands virtually for advances made by the city to the property owners, who are ultimately to pay the assessments, and out of which advances the city lies until the assessment is collected? A. Well, formerly —

Q. Never mind that; please stick to the question.

Senator FASSETT.—Yes; just answer that question.

The WITNESS.—Some of those old assessment lists might have accrued under the law where the contractor paid interest — under the ordinance of the common council.

Q. But that was long before this six years? A. Yes, sir.

Senator FASSETT.—Well, barring those.

The WITNESS.—Barring those; yes, sir.

Q. Can you tell us what it has cost the city by way of loss of interest on this \$11,844,239.18 because in the delays of the performance of the work; have you figured that; you have figured very carefully what it has cost for salaries, but have you figured what it has cost by way of delay; we found one item of cost of \$154,000, by way of delay, on one sewer alone? A. With the exception of those old assessments there was no delay and very little loss to the city in the way of interest.

By Senator FASSETT:

Q. Then, your answer to Mr. Ivins' question is that you have never estimated what the city was out? A. Yes, sir; but it is the prime object of the board of assessors to make their assessments as levied get into the hands of the board of revision for confirmation as soon as possible, and if the board of revision will act upon it immediately, then, as a matter of course, there is no interest lies out.

Q. Let us take some cases; the assessment for One Hundred and Forty-third and One Hundred and Fifty-fifth street, between Eighth and Ninth avenues, for filling in sunken lots, was received by your board on the 24th of June, 1884; it was still in the hands of your board on the 1st of August, 1889? A. That was another one of those cases.

Q. That is five years; what has been done with that; tell us first what has been done with it, and then tell us why it hung from 1884 until some date between 1889 and the present? A. That assessment-list was acted upon in its order just as rapidly as the board could act upon it; objections were filed in relation to the matter; we transmitted it to the board of revision, and the board of revision, I think, on the strength of the objections made before that board, they returned it to the board of assessors, and, I believe, as many as three times; it was one of the most difficult things which we had, was to get that assessment-list finally through the board of revision and collection of assessments.

By Senator FASSETT:

Q. You have not got it through yet, have you? A. Yes, sir.

By Mr. IVINS:

Q. Has it been confirmed? A. Yes, sir.

Q. When was it confirmed? A. I think it must be within a year.

Q. Within a year? A. I think so.

Q. But it was pending for over five years, a total amount of assessment of \$73,000? A. Yes, sir.

Q. And the loss to the city was over \$18,000 on a five per cent rate; that is, the city lost over one-quarter by loss in interest of the actual cost of that work through the delays incident to the collection of the assessments? A. Yes, sir.

Senator FASSETT.—There seems to be a round of Round Robin of responsibility here.

Mr. IVINS.—We have got to find out how to get this work done a little more promptly and quickly.

Q. Courtlandt avenue, from Third avenue to East One Hundred and Fifty-sixth street, grading, etc.; that came into your office on the 9th of March, 1885, and it was still in your office on the 1st of August, 1889; that involved only \$6,703; why did a small item of that kind lay there five years? A. Does that statement also show you the number of times it was transmitted to the board of revision?

Q. The statement shows — your quarterly report, that your board presented to the comptroller for his interest certificate, March 13, 1885; that it was returned by the comptroller three days later; that

the comptroller's certificate was dated the seventeenth, this being returned by the comptroller to you on the eighteenth but it was not advertised until December 31, 1888, in other words, there was a period of over three years between the time that you got the comptroller's certificate and the time it was advertised; that then it was readvertised on April 11, 1889, showing evidently that it only had been to the board once; and it was for the gross sum of \$6,703; but that was pending for over five years; now, why was it; that is not a vast volume of work; it is not in two books? A. No; it is not.

Senator FASSETT. — Were the maps troublesome there?

The WITNESS. — The principal cause of that delay was in consequence of an award for damages that was required in consequence of the change of the grade of the street; the property owners claim that they were damaged to a certain extent; the board of assessors upon examination of the street — examination of the working profiles that were by the engineers before they proceeded with the work — didn't lead the board of assessors to think precisely that the damages amounted to the amount that the property owners themselves claimed; we have a very indefatigable set of workers in the interests of property owners in this city connected with assessments here known as assessment lawyers; they grasp at all these subjects with avidity.

Q. Was there litigation in that matter? A. Yes, sir.

Q. Who defended the case? A. The corporation counsel; he is the one that gives us all advice under the circumstances, and under his advice. —

Q. [Interposing.] Do assessment lawyers bring actions to set aside assessments before the assessment is laid or levied? A. No, sir; but they bring forward their objections and present them to the board and in many instances they apply to the courts and obtain writs of *certiorari* and *mandamus*.

Q. Did they in this case? A. I do not remember.

Q. Where they did obtain writs of *certiorari* you in making your report are careful to put that in? We may possibly have done it.

Q. If I find in certain cases that you have put in that writs of *certiorari* have been obtained and in others cases you have not put them in, the presumption is that there have been no such writs? A. Yes, sir.

Q. Then, how did the lawyers come into this thing, if there were no writs of *certiorari*; there could have been no action to set aside the assessment; therefore where did the lawyers come in? A. Well, there are several lawyers that make it their sole business to watch all assessment-lists that are advertised by the board of assessors, and, whether they can make any money out of it or not, they appeal to the property



owners that they are being wronged by this assessment being levied upon them.

Q. Suppose the lawyer does not get any process of court, suppose he doesn't get his writ of *certiorari* how can he delay you in your work? A. When we transmit it and overrule the objections that he will offer on behalf of the property owners he then again appears, and, by the exercise of his argument before the board of revision, he will possibly have the assessment-list transmitted back again to the board of assessors for further consideration.

Q. In that particular case, do you think the fault was on the board of revision? A. I believe that that assessment-list was also transmitted to the board of revision several times.

Q. Have you any records in your department which will show how long the board of revision held that case? A. The records are deposited with the assessment-list in the comptroller's office, and all documents are there, and you will find a mass of them, with the applications and computations for awards for damages from all those parties along the line of the improvement; and you will again observe them elaborated; that would require some little time, to examine into a great number of claims for awards for damages, where with every particular piece of property they make applications for an award; that has to be examined critically by the board, and their judgment exercised as to the interest of the improvement—to bring a house up to the new grade as established, etc.; some we will find sunk down six or eight or ten feet, and in some instances twenty feet; and in some cases we will find them perched away up on a hill.

Q. Yes; I am beginning to realize that it is a very serious and difficult tax? A. I hope you will; it is about time that you, as well as some other citizens, realize that fact.

Q. Let us take the case of the regulating and grading from Clement street, from Boston road to the Bronx river? A. That is another instance of the same character.

Q. And, although that is only a small one of \$10,000, it has been knocking around for over three years? A. That was transmitted to the board of revision two or three times and sent back again.

Q. Why didn't you show that in your report? A. We confine our tabulated statements to as few figures as possible, otherwise the tax commissioner would have to print a large book.

Q. Would that do any harm? A. It would be an additional cost to the city, and they couldn't afford, it perhaps.

Senator FASSETT.—Would that be more cost than the interest costs?

Q. Don't you think a little more complete and full publicity in these matters would be a desirable thing for the city? A. It might be.

Q. How many people in the city of New York, outside of those interested, ever heard or dreamed of such a thing as that the city was losing \$144,000 in interest account? A. That matter was brought to the attention of the board of revision very many times.

Q. Now, take the— A. [Interrupting.] They lose more than that; there is something there that you didn't know anything at all about.

Q. If there is, tell me; that is what you are here for; tell me now? A. If you want a little more about the Brook avenue sewer?

Q. I do; tell me some more about it? A. The great fight that the assessment lawyers made in relation to the Brook avenue sewer was on the interest account — the large interest account, as shown by the certificate obtained from the comptroller; they claimed that in consequence of the delay in the matter that that interest should not accrue against them to the extent that it appeared upon the certificate; they advocated their claim so strongly before the board of revision that the matter was referred to the corporation counsel for his opinion; the corporation counsel took the matter into consideration for some time, and there is where some of the delay in this matter can be accounted for.

Q. Who was the corporation counsel at that time? A. Mr. Henry R. Beekman.

Q. What years was that; wasn't that in the corporation counsel's office in Mr. Whitney's term? A. No, sir.

Q. Wasn't it there in Mr. Lacombe's term? A. No, sir.

Q. It was there in Morgan J. O'Brien's term? A. No, sir; I merely say that the matter was referred to the corporation counsel — this question of interest — and he made his report to the board of revision, and recommended a deduction of fifteen per cent of the total cost of the work in consequence in the interest certificate being so large.

Q. Did he recommend that in spite of the fact that the city had lost interest for over six years on \$441,000? A. Yes, sir; and in spite of the fact that the Consolidation Act says plainly and emphatically, that the whole amount of that certificate shall be embodied in the assessment and levied upon the property.

Q. What corporation counsel was that — Corporation Counsel Clark? A. No, sir; Mr. Beekman.

Q. That was his recommendation? A. Yes, sir.

Q. When do you say that recommendation was made to reduce fifteen per cent? A. It is on file; you will find the papers all there, in the comptroller's office.

Q. Now, is there anything more about the Brook Avenue sewer? A. No, sir; that is all, excepting that the delays were not the fault of the board of assessors, but you will find —

Q. [Interposing.] I didn't say they were? A. Originally the fault lay with the department of parks in the imperfect form in which they sent the work to the board.

Q. If you were to fall between two stools, would it make much difference to you which stool it was? A. No, sir; but in consequence of the stools sliding apart and I falling down I might hurt myself.

Senator FASSETT.— That is what is the matter with the city of New York. Mr. Ivins, are you pretty nearly through with that list? If not, we will take this up in the morning,

Mr. IVINS.— I think we shall have to have our accountant make up a careful statement of the loss of interest to the city on this general account of eleven millions of dollars that has been levied during the last six years. We have got to take them up in detail before we do it.

By Senator FASSETT:

Q. Mr. Gilon, you think that Mr. Coleman didn't understand the amount of work done in your office, when he said that he thought one man was sufficient to do it? A. He did not.

Q. You four men are there every working day in the year, between 9 and 4 o'clock, are you? A. Yes, sir; I never have taken a vacation in five years; I have been in the office every day that I was well.

Q. Have all of the commissioners been there every day that you were well? A. Nearly all of them — very nearly every day, excepting when they have taken their vacations.

Q. From 9 o'clock until 4 every day? A. Yes sir; the majority of them.

Q. The majority of them have been there the majority of days, from 9 o'clock to 4 o'clock, engaged in business of the office? A. They may not have been there during the whole of the hours from 9 till 4, because a great deal of the time is taken up in visiting the lines of the improvements affected by these assessments.

Q. You regard yourself as a pretty hard-worked official? A. I do, sir.

Adjourned until to-morrow, October 22, 1890, at half-past 10 o'clock.

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### EXHIBIT 1 — OCTOBER 21, 1890.

#### PERSONAL TAXES.

Personal taxes charged off to deficiencies in taxes; July 1, 1882; taxes of year:

1852. ....	\$51,500 37
1853. ....	87,067 82

1854.....	\$136,574 69
1855.....	178,732 89
1856.....	294,725 41
1857.....	297,880 43
1858.....	151,351 49
1859.....	142,707 86
1660.....	145,447 82
1861.....	148,681 56

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\$1,634,670 34

## January 31, 1888:

1862.....	\$360,663 20
1863.....	148,269 82
1864.....	152,256 86
1865.....	348,161 73
1866.....	330,021 11
1867.....	571,498 15
1868.....	890,288 41
1869.....	645,075 88
1870.....	908,667 66
1871.....	1,056,792 14
	<hr/> 5,411,694 97

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Total ..... \$7,046,365 31

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## PERSONAL TAXES UNCOLLECTED OCTOBER 1890.

For year 1872 .....	\$1,217,173 82
For year 1873 .....	1,058,826 61
For year 1874 .....	386,058 89
For year 1875 .....	273,636 90
For year 1876 .....	248,726 12
For year 1877 .....	203,246 77
For year 1878 .....	238,960 73
For year 1879 .....	187,145 59
For year 1880 .....	241,367 48
For year 1881 .....	238,286 73
For year 1882 .....	173,439 20
For year 1883 .....	91,176 27
For year 1884 .....	94,769 81
For year 1885 .....	121,273 61
For year 1886 .....	130,177 51



For year 1887 .....	\$159,233 01
For year 1888 .....	164,137 88
For year 1889 .....	279,103 16

Total .....	\$6,306,790 09
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NEW YORK, October 21, 1890.

J. C. BARRETT,  
General Bookkeeper.

EXHIBIT No. 2 — OCTOBER 21, 1890.

*Assessments account street improvement funds.*

Vacated year 1880 .....	\$739,301 66
Vacated year 1881 .....	957,557 69
Vacated year 1882 .....	890,150 26
Vacated year 1883 .....	256,324 44
Vacated year 1884 .....	261,010 42
Vacated year 1885 .....	166,270 88
Vacated year 1886 .....	544,451 09
Vacated year 1887 .....	261,687 20
Vacated year 1888 .....	28,941 65
Vacated year 1889 .....	16,084 47
Total vacates .....	\$4,121,779 76

*Assessments confirmed.*

1880 .....	\$290,042 69
1881 .....	696,307 95
1882 .....	700,187 76
1883 .....	833,618 82
1884 .....	726,559 98
1885 .....	971,709 91
1886 .....	2,161,023 40
1887 .....	1,525,728 52
1888 .....	2,108,986 68
1889 .....	1,767,993 50
Total confirmed .....	\$12,782,159 21

NEW YORK, October 21, 1890.

J. B. BARRETT,  
General Bookkeeper.

## EXHIBIT 3 — OCTOBER 21, 1890.

OFFICE BOARD OF ASSESSORS,  
 No. 27 CHAMBERS STREET,  
 NEW YORK, *October 17, 1890.*

YEAR.	Number of assess- ment lists.	Total amounts as presented for confirmation.		
1879 .....	67	\$750,981 34	Edward Gilon, assessor .....	\$3,000
1880 .....	69	1,575,699 25	P. M. Haverty, assessor .....	3,000
1881 .....	114	544,075 04	Chas. E. Wendt, assessor .....	3,000
1882 .....	134	1,130,559 79	Edward Cahill, assessor .....	3,000
1883 .....	110	666,062 06	Wm. H. Jasper, sec. ....	2,800
1884 .....	133	633,675 26		
1885 .....	115	2,914,986 22		\$14,800
1886 .....	129	1,775,935 37		
1887 .....	191	1,437,030 28	\$531,052.74.	
1888 .....	233	2,389,248 38		
1889 .....	289	1,750,464 38		
1890 to October 15 .....	185	1,566,577 55	LL, \$834,239.18.	

NEW YORK, *October 22, 1890.*

Present — Senator FASSETT.

MICHAEL COLEMAN, recalled, testified as follows:

By Mr. IVINS:

Q. Mr. Coleman, when the register was on the stand he was asked what was the occasion of the delay in making the preparation necessary for the introduction of the new block system of registration on the first of January next, and he said it was the duty of the tax department to supply him with maps; that those maps had not been supplied, and, as I now recollect it, that the delay was incident to the friction between his office and your office, because of your failure to supply the maps; will you please state what has occurred? A. There was no friction between the two departments, but it appears when we advertised for the contract of that work we had estimated that the contract price to furnish those maps would be about \$8,000, and we invited all the parties in New York to compete for the work, that was in that business in New York, and we only got three bids; one from Martin B. Brown, and one from the party who has made up the maps — what's his name — Robinson, and one from Sohmer Manufacturing Lithograph Company, and we were obliged to take and award it to Sohmer because he was the lowest; before he had signed the contract I warned him that his bid was far below what we thought it would cost to do the work as we wished it done, and to give us the material as it was called for, and recommended to him, rather than to go ahead, he had better take and forfeit the money he put up than to lose a large amount afterwards, as we would insist upon having the work done according to the contract; he has several times previous to this last month back, offered us sheets which we were obliged to reject, and the consequence is that the work has been delayed, because he didn't suppose that we would demand the fine work that was called for and necessary for that purpose; we felt alarmed about the manner in which he was performing his work, and thinking that the time was going by, and only having a few sheets instead of the many that we thought we would have by the first of October, we kept returning them, and as we got sheets then we felt as if we were bound to notify the register that we had better work together, and that is the letter that I sent to the register, or Mr. Bell. [Presenting letter book to counsel.]

Senator FASSETT.—Mr. Bell sent to him.

The WITNESS.— Yes.

Mr. IVINS.— “September 10th, 1890. Frank T. Fitzgerald, register, New York city. Dear Sir.—The department of taxes and assessments

has so far progressed in the block index maps, in pursuance of chapter 349, Laws of 1889, that the block outlines and numbers may be traced from the original maps in our office. Such outlines and number will be a necessity for you in the preparation of your index books, and this is to notify you that you can have access to our maps for that purpose. The lithographed maps will not be ready before about November the first, which might not allow you time enough to make up your books. We, therefore, offer you the opportunity to copy from the originals at present in our office. Very respectfully, commissioners of taxes and assessments, per Frank J. Bell, chief deputy."

Q. Now, Mr. Coleman, in short, then we understand that inasmuch as the complete lithographed maps will not be ready before November first, and inasmuch as that delay, in case the register waited until then, might occasion delay in the introduction of the system, you have got maps of such character that the block outlines and numbers may be traced? A. Well, up to the present time we have partly, a part of the entire system; at the same time—

Q. You have part of it complete? A. Yes; part of it complete; well, no; it is not bound or anything of that kind but the sheets are complete.

Q. Complete maps? A. Yes; complete maps.

Q. And all that is necessary for the register to do under the circumstances is to go into your office and take off these numbers? A. Those index numbers.

Q. And if the register does that— A. He can go ahead.

Q. He can go ahead and the system will be ready for use on the first of January? A. Yes, sir.

Q. Now, are you required to do that or is the register required to do that, and if it be not done, whose fault is it? A. Under the law we are obliged to take and file maps with the register, but on account of the non-completion of the work—there is a letter there I want you to read so as to show that we are following the matter up with Sohmer.

Q. Just finish what you were going to say and I will read it. A. We thought it would be more pleasant to work together and for that reason we notified the register so that we could give him all the facilities and assist him in getting up his work so as to be ready on the first of January.

Mr. IVINS.--The letter referred to by the witness as having been addressed to the Sohmer Lithographing Company and Printing Company is dated October sixteenth. "Gentlemen.—The contract awarded to you for the maps for the block index system, under con-



tract dated June twenty-first, will expire October twenty-first; you were warned previous to signing the contract that your bids for doing the work were below our estimate, and also informed that no work of any inferior character would be accepted either as to the workmanship or material to be used; as the law is mandatory upon us to have the work done in time so as to file the same with the register to allow time to complete his books before the first of January, I hereby notify you that if the work is not finished at the expiration of the contract I will inform the mayor of our situation and direct the work to be done by outside parties, if possible, charging you for the difference between the contract price and the cost of doing the work; you have tried several times during the interval to force upon this department inferior work and material, and each time when the work was rejected you were informed that nothing except what was called for in the contract would be accepted; as you are now engaged in competing for corporation work, it would be well for you to understand that this is a serious matter to you as well as to ourselves; it would be well for you, if you find it impossible to finish the work on or before the expiration of the contract in your own establishment, to employ other parties capable of doing the work, so as to relieve this department of the responsibility of having the work delayed. Yours, Michael Coleman."

Mr. IVINS.— That is all, Mr. Coleman.

EDWARD GILON, recalled, testified as follows:

By Mr. IVINS:

Q. Mr. Gilon, the assessment-lists for regulating, grading, curbing, flagging and crosswalking Westchester avenue, from North Third avenue to Prospect avenue, were received in your office on the 15th of August, 1887; they were still in your office on August 1, 1889; the total assessment was \$52,022, and the number of pieces of property assessed was 171; when did those papers go out of your office and when were the assessments completed? A. They went out—that assessment-list went out of our office, I think, twice to the board of revision, and has been returned to us and is still in the office; under the direction of the board of revision, acting upon the advice of the corporation counsel; their action was based upon objections that had been raised to the assessment-list, some of the objectors claiming that their property was assessed to a greater extent, according to their frontage and area, than the property immediately opposite to them on the road; the board could not grant them any relief in the matter for the reason that the law provides for a certain way and manner in which the board of assessors shall levy their assessment upon pieces

of property; as I stated yesterday, they will compare them with the tax maps, and they will use no other ward or block numbers, or any other designation for the various plots of ground affected by an assessment than that which they find upon those maps; on the one side of the street the lots were subdivided into small tracts, generally twenty-five by 100; on the opposite side of the street they were part of an estate owned by one party, and were, therefore, in plots equal to the size of the whole block; that is to say, they were in one plot only, being divided by the streets that surrounded the plot; in examining the maps we found that the valuations — and this brings me to refer to an act of 1840, in which we are confined in assessing property to one-half the taxed valuation as we find it upon the tax books; the valuation of the small plots that was on one side of the street, compared with the valuation of the large plot on the other side of the street, required us to only assess one-half the taxed valuation upon the small plots, the rest, the difference between that and the equitable amount levied upon each, was charged to the mayor, aldermen and commonalty of the city of New York; the large plot being assessed for the valuation, that gave the board an opportunity to put the full amount of the cost per foot upon that; it was done so; those people complained that they should have been treated in the same manner as the people on the opposite side of the way, and carried their case to the board of revision; the board of revision referred it back to the board of assessors for the purpose of seeing what could be done in relation to the matter, and referred the case to the corporation counsel for his opinion; the corporation counsel held that matter in abeyance for a long while; I presume for nearly eight or nine months; probably more; and rendered his decision about three or four months ago — three months ago, probably — in which he stated that the assessment list should be referred back to the board of assessors, in order to give these people an opportunity to have their property subdivided by the tax commissioners, in order that they might be arranged according to the property on the other side of the way; it was so returned to the board of assessors; applications were made by these parties to the tax commissioners for the purpose of having their property subdivided, and they have not yet succeeded in doing so.

Q. The assessment lists for paving Madison avenue from One Hundred and Twentieth to One Hundred and Twenty-first street, aggregating \$4,339, were received in your office on the second of July; how long were they pending? A. That I think is still in the office or else in the hands of the corporation counsel; it is one of the

cases where a surface railroad runs through the street—is that a paving case, Mr. Ivins?

Q. It is a paving case? A. The lawyers for the objectors to the improvement claim —

Senator FASSETT.—Can't we get at this without going into all the details, Mr. Gilon?

The WITNESS.—No, sir; you can not.

Mr. IVINS.—I do not want Mr. Gilon to go into the history of the litigations in these cases.

The WITNESS.—No, sir; I merely wish to tell you the reason why it is retained.

Mr. IVINS.—I don't want the reason why. I simply want to know whether it is there or not, and if it is not your fault, you may say so, but if we have got to go into a work of a revision of the entire work of the board, it will take us a year.

The WITNESS.—It is held in consequence of a writ of mandamus, in similar cases, having been issued by the court.

Q. Are you sure there is a writ of mandamus in that case? A. In similar cases there are.

Q. Is there a mandamus in this case? A. I am not aware; I am not certain whether there is or not, but in all similar cases there are; we have four or five now pending in court.

Q. The assessment-lists for paving Madison avenue from One Hundred and Third to One Hundred and Fifth street, aggregating \$5,219, were received in your office on the 2d of July, 1888? A. Held for the same cause.

Q. They are still held. A. For the same cause.

Q. Regulating grading, curbing and flagging Manhattan avenue, from One Hundred to One Hundred and Fifth street, \$202,618, received in your office August 16, 1888? A. Returned to the department of public works sometime ago, by their request, in order to complete the matter; it was sent to our board in an incomplete condition.

Q. They were sent in an incomplete condition? A. Yes, sir.

Q. Have they been returned to your board yet by the department of public works? A. No, sir.

Q. Then if the city is losing interest because of the delay on that, at six per cent, it has certainly lost \$18,000 interest on that account? A. Haven't lost anything, Mr. Ivins, because the assessment-list not being perfected the interest certificate is not attached to it.

Q. The interest certificate is not yet attached to that, in that case? A. No, sir; the work extends from One Hundredth to One Hundred and Tenth street when completed; this list, you will see a memorandum

there, was a list that was sent to us for only one-half of the work, from One Hundredth to One Hundred and Fifth street; the found, by advice of the corporation counsel, which they asked in the matter when we drew their attention to it, that it was not a proper way to send the list to the board of assessors; therefore they asked it to be returned; we did so in order that they might perfect it.

Q. The lists for regulating and grading Westchester avenue from Prospect avenue to Southern boulevard, aggregating \$33,509, were received by you on the 22d of October, 1888, or quite two years ago? A. Held for the same cause of the other part of Westchester avenue, under advice of the corporation counsel, to give them an opportunity to subdivide their lots.

Q. Now, just tell us whether or not those several lists which were received by you in the year 1889, have, as yet, got out of your hands, for crosswalk, Fifty-ninth street, at east side of Avenue "A"? A. I can't tell you from memory yet, Mr. Ivins; what time was it received?

Q. Here is one you may be able to tell; sewers, Seventy-second street, between Hudson river and Eleventh avenue, branch in Riverside avenue, between Seventy-second and Seventy-sixth street, which was received on the 18th of March, 1889, aggregating \$34,203; what has become of that? A. Gone out of the office.

Q. Gone out of the office? A. First of July we had nothing in the office unacted upon.

Q. You had nothing unacted upon on the first of July this year? A. We had then only about thirty assessment-lists in the hands of the comptroller for obtaining his certificate; there was not a single list in the office that was not acted upon or accounted for in the manner of these I am telling you.

Q. Acted on or accounted for? A. In the way those were; yes.

Q. You seem to have the idea I am trying to fasten some responsibility on you for having things in the office; what I want you to do is to have you enlighten the committee as to how long these things have been pending and where they are; that is all? A. Yes.

Q. Now, had that been completed; that Seventy-second street, Hudson river and Eleventh avenue sewer? A. Yes, sir; confirmed.

Q. Confirmed as a finality? A. Yes, sir.

Q. One Hundred and Thirty-eighth street sewer, between St. Ann's and Trinity avenues? A. What date is that, Mr. Ivins?

Q. That was received by you in April of 1889? A. That is confirmed.

Q. There was an assessment for filling sunken lots in One Hundred and Forty-third street and One Hundred and Fifty-fifth street, between



Eighth and Ninth avenues, which lists were received by you in June, 1884, which aggregate \$734,676, which, so far as your report show, do not appear to have been confirmed on the 31st of October, 1889; that is a year ago; so that from your books it appears, as incident to the fault of some one or other, that had been pending for five years? A. Yes, sir.

Q. What has become of it now? A. That is confirmed.

Q. When was it confirmed? A. Within the past year.

Q. What was the reason of the great delay in that case? A. That was one of the assessment-lists; the great delay, without going into the particulars in regard to the matter, was in consequence of the imperfect condition of the assessment-lists when the present board assumed their duties there.

Q. The present board found that list there? A. Yes, sir.

Q. Found it in an imperfect condition? A. In an imperfect condition and endeavored to have the corrections made by the board that transmitted them to us, the department of public works; we found that the surveyor had neglected to give us the details of the amount of work that was done upon several parts of the thing; he gave it as a complete whole.

Q. It was the fault of the department of public works? A. Yes, sir; and it took us some time for the purpose of obtaining from the surveyor the detailed statement that was required.

Q. How long did it take before you got that statement back and found your sailing clear again? A. A year or more must have elapsed.

Q. Well, then, what occasioned the delay after that? A. The delay that was occasioned after that, arose principally from the fact of the low assessed valuation of that property, not permitting the board to say, in their estimation, first, what they deemed a sufficient amount of the assessment-list on the property at that time.

Q. You mean the assessments made by the board of tax commissioners? A. Yes, sir.

Q. Assessments for the purpose of taxation? A. Yes, sir; that was all sunken land; well, it was under water from three to five feet during the whole of that period; the common council ordered it to be raised from four to seven feet.

Q. Do you know whether the city owned that land or not? A. After the assessment had been in the office for some time, we received a communication from the corporation counsel, claiming that they owned the land where the bed of the creek had formerly been.

Q. That is, the land which at one time was land under water? A. This was all land under water; yes, sir.

Q. You received the lists for regulating, grading, curbing Courtlandt avenue from Third avenue to East One Hundred and Fifty-sixth street, on March 9, 1885; that, so far as your report shows, was still unconfirmed on the 31st of October, 1889? A. That list is now confirmed, sir.

Q. That is now confirmed? A. Yes, sir.

Q. When was it confirmed? A. I think it was during the past year.

Q. What was the occasion of the delay of five years in the confirmation of that? A. On the advice of the corporation counsel it was held in consequence of there being a doubt as to the legality of the assessment, the avenue itself not having been legally opened before the improvement had been made, and then also the difficulty of making a proper award for the damages to the property in consequence of the change of the grade that occurred there also.

Q. Lists for regulating, grading, curbing and flagging Tremont street, formerly Westchester avenue, from Boston road to Bronx river, were received by you on the 19th of February, 1887, and appear to have been unconfirmed at this time a year ago; what was the reason for the delay in that case, and what has become of the lists? A. The list is confirmed; the principal delay in that case also was the difficulty of settling the awards for damages to the property that was injured by the change of grade.

Q. Is it an established thing that wherever questions of that kind arise, it is going to take from two to five years to get lists confirmed?

A. It depends entirely upon the conditions of affairs that may surround every case.

Q. Is it not a fact that in every case where that question has been raised, either directly or indirectly, there has been a delay long in excess of the usual statutory delay of sixty days? A. No, sir; you will find that there has not been; you will find that the board, in several cases — if you follow the history of each case up, so far as the action of the board of assessors is concerned, that they have acted expeditiously in each and every instance.

Q. In how many cases within the past year have the lists been confirmed within the sixty days prescribed by statute? A. You will find a great number of them there, sir.

Q. In one-half of the cases? A. More than that, sir, in the past year; after we had got rid of a vast amount of material that had accumulated on the hands of the board of assessors previous to our assuming the duties.

Q. Why do you say a vast amount of material had accumulated, if these matters were out and in other departments and before the board

of revision, or returned to the commissioner of public works? Did the fact that the matter was pending in your office, but virtually out of your hands because in the hands of these other boards, impose any burden of labor on you or make an accumulation in your office? A. I wish to call your attention, Mr. Ivins to one fact; that there were 200 lists accumulated in the office when we assumed the duties of the office.

Q. That was six years ago? A. Five and one-half years ago; and you can see how soon the attention of the board was drawn to this very subject in regard to interest; there is an answer from the corporation counsel to a communication from the board, to that very question, which I would like to have you read [presenting paper to counsel].

Mr. IVINS.—“Edward Gilon, Esq., Chairman, Board of Assessors.” This is dated August 13, 1886. “Law Department, office of the Counsel to the Corporation. Sir.—I have duly received your letter under date of June 28, 1886, referring to the provisions of section 868, subdivision 2, chapter 410, Laws of 1882, and requesting my opinion whether it would be advisable for your board to retain future assessment-lists in your office until such time as the board could act upon them before presenting the lists to the comptroller for the computation of interest. Under the provisions referred to in your letter, the comptroller is directed to certify to the board of assessors the amount of interest at the legal rate upon the several installments, advances or payments made on account of public improvements, from the time of such payment or advance by the city, and to a date sixty days after the date of such certificate. The act further provides that the amount of interest so certified shall be included in the cost and assessed by the board of assessors upon the property benefited, for all local improvements. You state, that since the passage of the act, it has been the uniform practice of your board, upon the reception of an assessment-list from the department having charge of the execution of the work, immediately to present the same to the comptroller for the interest certificate, and that when the assessment-lists are returned by the comptroller, they are filed in your office, and acted upon when reached in their regular order. Owing to the large number of assessment-lists which have accumulated in your office during the number of years past, immediate consideration of subsequent lists is impossible, and in some instances more than a year elapses from the date of the comptroller's certificate of interest to the date of confirmation by the board of revision and correction of assessments. In order, I presume, to obviate the loss of interest to the city by the delay, you suggest the withholding of

the assessment-lists in your office, when received from the department having charge of the work of improvement in hand, until such time as you are able to act upon them. I see no objection to this plan. The statute does not fix any limit within which the interest certificates must be furnished, and as your department is not, by law, required to furnish the list to the comptroller, but has simply done so as a matter of official routine, or perhaps as a matter of official courtesy, I can not see that any just cause for complaint should arise from the course which you propose. As the city would save the interest on its advances by the method you suggest, I think it would be expedient to adopt that method hereafter. Respectfully yours, E. Henry Lacombe, counsel for the corporation."

Q. Was that method adopted? A. It was, sir, up to the time we cleared the office of all material, and now there is nothing on hand but what we receive from time to time from the department of public works; then, in order that this matter might be expedited, they are immediately sent to the comptroller for his certificate, and anything that you will find there, can be accounted for otherwise; you can see how early this matter was drawn to our attention, and how anxious we are upon the subject.

Q. Will you prepare for the committee a statement of all assessments which were in your office when you entered upon the office, of all the lists which have come into your office since you entered upon the office, and in each case give the date of the reception of the lists in your office, and the date of the final confirmation of the list, showing when the matters passed out of your hands? A. I will do so with pleasure.

Q. Now, will you tell me what has become of the lists for paving Eighty-sixth street, from Eighth to Riverside avenue, which came into your office July 2, 1888, which aggregated \$39,452, covered 180 pieces, and were still in your office October 31, 1889? A. That is a railroad case also.

Q. Is the case of paving Eighth avenue from One Hundred and Forty-fifth to One Hundred and Forty-ninth street, which came into your office September 5, 1888, also a railroad case? A. Yes, sir; and held under mandamus.

Q. Those are alike in character? A. Yes, sir.

Q. Now, what has become of those two cases? A. They are held for the decision of the court, under the advice of the corporation counsel.

Q. Does the corporation counsel advise you to hold these matters orally or in writing? A. I think that we have it in writing as well as orally.



Q. Can you get the correspondence of the corporation counsel on these matters readily? A. Or otherwise, I can give you copies of the mandamus and the proceedings which was, as a matter of course —

Q. Wherever there is a mandamus, that ends it so far as you are concerned, for the time being. A. Yes, sir.

Q. Can the correspondence of the corporation counsel or his directions to you on these matters be reached quickly and readily? A. Yes, sir.

Q. Could it be got right away, do you suppose; are the files so kept that they can be got at once? A. I have no doubt Mr. Sterling can be brought here, who has charge of all those matters in the corporation counsel's office; you will find in my letter book also the inquiry I made from the corporation counsel in relation to the matter, and where he said — now, I don't remember whether he either orally or by writing; he stated that the case was now in the General Term and had gone over until the fall term.

Q. Who has charge of that work; Mr. Sterling? A. Mr. Sterling; J. L. Sterling.

Q. He is one of the assistant corporation counsel? A. Yes, sir; and has charge of all assessment matters.

Q. Who has charge of the matters of special boards for street openings; do you know? A. I think at the present time it is a gentleman named Dunn; John P. Dunn.

Q. Will you also prepare for the committee, in view of your statement that your work was all closed up on the first of July, and that nothing was pending in the office, a list of all matters which had theretofore been in the office and which were pending, but pending because of the intervention of the courts, or because of irregularities which had required the sending back of the papers, or because of appeals to the board of revision? A. Yes.

Q. That is, all matters which were still in your office on the first of July, but, although nominally in your office, out of your control, and on which you could not act? A. Yes; the first of July there was really nothing in the office except those railroad cases, held under mandamus of the court; everything else had been confirmed and out of the office.

Q. Everything else had been confirmed and out of the office? A. Yes, sir.

Q. But you mentioned a number of cases now that were still pending? A. Only those railroad cases.

Q. Oh, no. A. And that particular one of Westchester avenue; that was held under the advice of the corporation counsel.

Q. That matter of filling sunken lots is still pending? A. No, sir; that is confirmed.

Q. That is closed; regulating and grading Courtland avenue finally closed? A. Yes, sir.

Q. Tremont street regulation finally closed? A. Yes, sir.

Q. Westchester avenue? A. That is the one that is pending on the advice of the corporation counsel, for subdivision of the lots.

Q. How about these Madison avenue and Eighty-sixth street cases; four distinct cases? A. They are all railroad cases, now in court.

Q. Regulating and grading Westchester avenue? A. That is the one you just mentioned.

Q. No; I mean Tremont street? A. That is confirmed, Tremont street; but Westchester avenue is the one that is held.

Q. Tremont street? A. Tremont street.

Q. Westchester avenue is still pending? A. Yes, sir; on the advice of the corporation counsel for the subdivision of the lots on one side of the street.

Q. If you will make me, first, the full general statement that I asked for and then, second, this particular statement, that will be sufficient; can you prepare for the committee a statement showing the amount of loss in interest to the city for delays in the confirmation of assessment-lists, no matter for what cause the delays have occurred, from the time that you went into the office to date? A. Yes, sir; I guess I can.

Q. That will certainly amount to over a quarter of a million dollars, would it not? A. I couldn't really answer that question at present.

Q. At what rate is interest calculated in the comptroller's certificate, six per cent? A. Yes.

Q. Well, if interest were calculated at six per cent, more than half of a quarter of million dollars — very nearly the interest of a quarter of million of dollars would be covered in the Brook avenue sewer case alone, would it not? A. Might possibly be.

Q. Well, if you will have that calculation of the loss of interest to the city made? A. And the history of the case.

Mr. IVINS.—And the history of the cases. Now that will do, Mr. Gilon. The secretary of the board will take the stand.

WILLIAM H. JASPER, being duly sworn, testified as follows:

By Mr. IVINS:

Q. Mr. Jasper, what is your business? A. I am secretary of the board of assessors.

Q. How long have you been secretary of the board of assessors? A. About sixteen years.

Q. Have you any book in your office which shows succinctly the assessment-lists received in the office, when received, the amount of the assessment and the number of parcels to be covered by the assessment, so that we can take it here and see exactly what had been received in the course of one year? A. Yes; very easily, all that information.

Q. Well, what do you call that book? A. We keep two records; one is a record of the assessment-lists as they come in, and that is kept in alphabetical order; the other is kept in numerical order; the lists are numbered numerically as they come in; all the information you just asked for is in the books.

Q. Do you keep a list—I mean a separate list—showing the assessments acted upon by your board and when acted upon, so that we can see exactly what work had been done in any one year? A. Yes, sir.

Q. That is a separate list, is it? A. Yes, sir.

Q. What do you call that book? A. Abstract book.

Q. If I were to send there now, is there anyone who could give those two books so that they could be brought over here? A. Yes; sir; ask for the index books and the abstract book.

Senator FASSETT.—For any given year?

Mr. IVINS.—Take it for the years 1887 and 1890.

The WITNESS.—They are written up to date.

Senator FASSETT.—Is it all one book or a book each year?

The WITNESS.—The last book commenced, I think, about 1887.

By Mr. IVINS:

Q. I have in my hand your minute book, beginning with the meeting held on the 3d of January, 1889, or say showing the minutes of the board for the past twenty-two months; will you go through that book and tell me how many meetings have been held for the past twenty-two months? A. If you have time to wait.

Q. Oh, yes; just look right through them now; how many meetings? A. One hundred and ten.

Q. In the twenty-two months? A. Yes, sir.

Q. What proportion of your meetings—

By Senator FASSETT:

Q. Do your minutes show how long those meetings lasted? A. Not in the minutes.

By Mr. IVINS:

Q. How long do those meetings last, as a general rule, Mr. Jasper? A. Sometimes three-quarters of an hour; from that to three or four hours.

Q. Is not a three-hour meeting a very rare and exceptional thing  
A. Very fair sample.

Q. Very fair sample? A. Yes, sir.

Q. Now, I will take the minutes of the last meeting of the board; they read as follows: "Meeting of the board of assessors held this 16th day of October, 1890; present, the full board; namely, Messrs. Edward Gilon, chairman, P. M. Haverty, Charles E. Wendt and Edward Cale; on motion, the reading of the minutes were dispensed with;" that didn't take long did it? A. Not very.

Q. [Continuing reading.] "Communication was received from the board of revision, etc., notifying the assessors of a meeting to be held October 16, at 1 P. M.;" that didn't take much longer, did it? A. No.

Q. [Continuing reading.] "The following assessment-lists having been duly advertised, and no objections received, were, on motion, ordered transmitted to the board of revision and correction of assessments of confirmation, namely, 3,297, sewer on Tenth avenue, east side, between One Hundred and Thirtieth and One Hundred and Thirty-first street; 3,299, sewer in One Hundred and Forty-fourth street, between Seventh and Eighth avenues, etc.; 3,295, the assessment-list for the sewer in One Hundred and Twenty-third street, between Ninth and Tenth avenues, to which objections were filed by T. S. Bassford, attorney, was, on motion, laid over and the secretary directed to notify Mr. Bassford that a hearing would be given him on Thursday the twenty-third inst., at 11 A. M.; on motion the board adjourned; W. H. Jasper, secretary." How long did it take to do that last piece of business; five minutes? A. How long did it take to do what you have just read?

Q. Yes; that is ordering these two lists transmitted and laying one list over? A. They were discussed by the board for several minutes prior to doing that, together with other matters.

Q. Now is not that a fair sample of the minutes? A. No, sir; it is not; that is one of the shortest minutes on the record of the proceedings.

Q. Now, I find that those minutes fill all of page 240 by leaving out several lines to space it very prettily; now the minutes of the next meeting prior to that appear on page 238 and the upper quarter of page 239; they are not practically any longer than the minutes of the meeting of October sixteenth, and on their face it does not appear that anything more was done; how long did that meeting last? A. That meeting lasted an hour or two; the minutes are very much condensed; the board sitting as they do in a judicial capacity, I do not place in the minutes anything but where there is official action taken.



Q. You say these minutes of October sixteenth are one of the shortest on record? A. Yes, sir.

Q. Now on October second, page 237, I find minutes which cover exactly the same space, but do not record the doing of so much business? A. Well, that is for the reason that the board of assessors have pretty much worked up the assessment-lists that have been in the office for a number of years, and just at the period you have mentioned they had not done quite as much business as heretofore.

Q. Now the meeting of September twenty-fifth, which appears at page 236, also covers only one page, and in reality less of the page than is covered by the minutes of October sixteenth, which you say is an exception? A. That does not indicate the amount of business that took place.

Q. Now let us see what took place at the meeting of September twenty-fifth? A. Nor the time consumed by the board.

Q. The full board was present; on motion the reading of the preceding minutes was dispensed with; a communication dated September twenty-third was received from the comptroller returning assessment-lists; on motion the secretary was directed to prepare all assessment-lists now in the office for the oath of the assessors; Granville P. Hawes, counsel for the Simpson estate in the matter of the regulation of Westchester avenue, filed a brief in this proceeding; after consideration of the subject, the board on motion referred the brief to the counsel for the corporation; that is all that was done at that meeting? A. No, sir.

Q. That is all the minutes show that was done at that meeting? A. The board discussed the matter of Westchester avenue and discussed this brief.

Q. Was there an argument before them? A. Mr. Hawes was present and filed the brief.

Q. Was there an argument? A. Yes, sir.

Q. Or did he simply file his brief? A. He filed his brief and made an argument at the same time.

Q. How long did Mr. Hawes talk about that? A. An hour.

Senator FASSETT.—Formally or informally?

The WITNESS.—Formally and informally; both.

Q. Why didn't you say, instead of filing a brief, that Mr. Hawes was heard? A. It is practically the same thing; he has been heard on the subject, I suppose, twenty times by the board of assessors.

Q. And having been already heard twenty times—do they give him an hour every time he wants to be heard? A. We give them all the consideration due them.

Senator FASSETT.—They sit around the office and talk it over, I suppose?

The WITNESS.—They sit around the office and discuss the matter; it involves many thousands of dollars, and requires proper consideration.

Q. I think, perhaps, the shortest minutes I find, in looking back, are those of August 1, 1890; it appears that the board was present, and it took half a page to record the business done by the board at that time; the minutes of the previous meeting were read, and that covered less than two pages, that reading; then it appears that "William H. Pierce, attorney for Mr. Deal in the matter of regulating Westchester avenue, was present; Mr. Deal was also present; petitioners claimed that the award of \$300 to be allowed for damages by the change of grade to the house situated on block 1674, ward 16, was insufficient, and that she had expended at least \$500 for the raising, and otherwise conforming to the grade; on motion, the matter was laid over for further consideration;" how long was that under consideration that day? A. I presume an hour; the board at these meetings discuss everything that is before them; everything that is in the office; talk the matter over; and I have not got time to put down on the minutes just what they say.

Q. You have a stated meeting once every two weeks? A. No, sir; once a week, and often twice a week.

Q. And those meetings consume from half an hour to two hours? A. Yes, sir.

Q. What are the office hours? A. From 9 to 4.

Q. Is the board in continuous session from 9 to 4? A. No, sir.

Q. Are all the commissioners there from 9 to 4 every day? A. No, sir.

Q. Do any of the commissioners have any regular time for being there every day? A. Yes; I think most of them make it a business to reach there at half-past 10 and leave at 3 or 4 o'clock; the business of assessing requires them to be out of the office a great deal; I have not made any record of that.

Q. If they get there at half-past 10 and sit until 4, they are in the office? A. They are a great deal of the time.

Q. Now, what will they do there? A. They take up the assessment-lists, discuss the merits of the work as it appears to them from the certificates that are furnished them, and they come to a conclusion among themselves as to the manner or principle to be adopted in equitably distributing the cost of improvement, and having arrived at that conclusion, they divide the work up and go through the mathematical calculation.

By Senator FASSETT:

Q. Do they make those mathematical calculations, or do you? A. They make them, and I make them.

Q. Who makes the most of them? A. I never kept account.

Q. Do you know? A. I do not.

Q. You haven't any idea? A. No, sir; some years ago when the office was not so busy as it is now, I did most of it, but of late years it has got to that extent — there are no clerks in the office.

Q. You are the entire clerical force, are you not? A. No; the board themselves act as the clerks; they are compelled to.

Q. You do not call them the clerical force, do you? A. No, sir; I am the entire clerical force.

Q. Who of the commissioners make mathematical calculations? A. All of them.

Q. Are they difficult mathematical observations? A. Well, it is a question of fractions and a question of good judgment.

Q. Could one man do all that work? A. No, sir.

Q. One man could not do all the clerical work? A. That would be an impossibility; there is not enough force there now, notwithstanding the opinions to the contrary; we had a clerk and assistant at \$2,000 a year, three years ago, and another one at \$1,000, and now we are without either one of those.

Q. And you have more work now than you had then; that is on account of the annexed district, is it? A. That is on account of the department of public works performing more work; I should say that the work has doubled in the office, but still we have less help.

Q. Well these four commissioners, do they average more time in the office than they average away from it during business hours? A. I never made a calculation of that kind.

Q. What would be your honest judgment? A. I should say that they were in the office a great deal more than they are out.

Mr. IVINS.—That is exclusive of nights and Sundays? A. I keep a record up to 4 o'clock.

HENRY A. PERRY, called as a witness, being duly sworn, testified as follows:

By Mr. IVINS:

Q. Mr. Perry what is your business? A. I am a deputy tax commissioner, sir.

Q. When were you appointed deputy tax commissioner? A. May 20, 1889.

Q. You had been deputy tax commissioner before, had you not?

A. Yes, sir.

Senator FASSETT.— When were you appointed?

The WITNESS.— May 20, 1889.

Q. During what periods had you been deputy tax commissioner theretofore? A. I think from about 1876 to 1882, in a clerical capacity from 1873 to 1876, I believe.

Q. Did you know Mr. Martine, your predecessor? A. Not until I was made a deputy tax commissioner in 1889 — after I had been made a deputy tax commissioner.

Q. Then you did not know him? A. No, sir.

Q. He is dead now? A. No; he is over there now doing very fine work.

Q. He was paralyzed at that time? A. I heard so.

Q. When did Mr. Martine send in his resignation? A. As what?

Q. As deputy tax commissioner? A. I never heard that he had sent it in; I know nothing about it.

Q. Is he still a deputy tax commissioner? A. No, sir.

Q. How did the vacancy occur which led to your being appointed? A. I think I read in the paper of 1889 — the budget of 1889 — that there was a vacancy in the office of deputy tax commissioner and I went to the office of the civil service board and made my application; someone there whom I had never seen before, and whom I have not seen since, gave me some papers and told me to make out my application, and he said, "Do you know there is a vacancy there?" I said "I know there is a vacancy by the tax department notifying the board of apportionment that there is about to be a vacancy there;" they told me then when to come; I did not know whether the examination was to be competitive or non-competitive, nor I didn't care; I went down there and went through my examination and went away; that was on April nineteenth.

Q. You were examined on April nineteenth? A. I think it was April nineteenth when I was examined.

Q. When did the tax department certify to the civil service bureau that there was a vacancy and that they wanted somebody to take the place? A. I do not know.

Q. Was it not a month after you filed your application and were examined? A. I do not know anything about it; I know I filed my application and went through my examination and went off.

Q. How long after that was it that you received notice of your appointment? A. More than a month.

Q. More than a month? A. Yes, sir.



Q. It has been shown in evidence here, within three or four days after the board had certified that there was a vacancy, your name was sent in—whereupon they appointed you? A. I have told you.

Q. Nevertheless, you were examined a month prior? A. I was examined on April nineteenth and never was appointed until May twentieth.

Q. That was before Mr. Martine was taken sick, was it not? A. That, I do not know.

Mr. IVINS.— Well, Mr. Perry, that is all, unless there is something you wish to state.

The WITNESS.— Are you not going to examine me about my district after all this hullabulo you have been making?

Q. If there is anything you have to say in regard to the matter, you may say it? A. I have got 5,500 assessments that I made in the district, and I stand on each one of them, and can show you the cause of the alterations.

Q. Let us take them up; let us take up the first of your wards, the seventh; now it appears that in the year 1881, the increase of assessed valuations in that ward was \$53,000; in 1882, the increase was \$226,000; in 1883, it was decreased by \$41,000; in 1884, it was increased \$177,000; in 1885, it was increased \$288,000 more; in 1886, it was increased \$330,000 more; in 1887, it was increased \$334,000 more; in 1888, it was increased \$504,000 more; in 1889, it was increased \$422,000 more; and in 1890, you increased it \$1,948,000; tell us why you did it? A. Because it was too low, decidedly.

Q. Why was it too low? A. There is a note which I subscribe to, which, in my judgment, the value at which that property should be assessed was what it would bring under ordinary circumstances.

Senator FASSETT.— How long was it?

The WITNESS.— It was not assessed at what it would sell for under ordinary circumstances.

Q. Who is responsible for that? A. I say when I went there in May, 1889, I put on the assessments; in 1890, I found them too low, in my judgment.

Q. You found them, in your judgment, how much too low? A. I increased the assessments \$1,948,619.

By Senator FASSETT:

Q. Did you put each piece of property up to the sum that that property would sell for, in your judgment? A. Yes, sir.

Q. You did not adopt the eighty per cent or the sixty-five per cent basis? A. No, sir; there was nothing said about basis or market value; there is no such construction put upon it by the Consolidation Act.

Q. You have assessed every piece of property at its full value? A. I do not say so; I say, in my judgment, I have assessed it at the amount that the property would sell for under ordinary circumstances; I do not mean the extreme amount.

Q. You mean that there is no question it will sell for that? A. Yes, sir; positively.

Q. There is no question that property would sell for half its value, is there? A. Why should it?

Q. What is the margin of safety; do you fix any margin of safety? A. Yes, sir; I did as Mr. Coleman directed me, in one sense of the word, that wherever there was any doubt, at all times to give it to the taxpayer.

By Mr. IVINS:

Q. I find by reference to the report of tax commissioners that the total assessed valuations of real estate in the seventh ward for the year 1890 was \$20,175,000? A. That is correct, sir.

Q. Of which sum \$1,948,000 was increase in one year by your act? A. Yes, sir.

Q. That is an increase of ten per cent, is it not? A. Yes, sir.

Q. Now then, your act shows that if you acted on your judgment, your judgment was that the assessments were ten per cent too low last year at least? A. I know nothing about last year assessed from 1889.

Q. You just said a minute ago that you raised the assessments before they were too low? A. When I went in there in 1889.

Q. How much were they too low? A. One million nine hundred and forty-eight thousand six hundred and nineteen dollars.

Q. That is ten per cent? A. Yes, sir; below.

Q. Then they were ten per cent too low? A. When I arrived in the office; I do not know the situation in 1888; I was not there in 1888; experience told me that they were too low, by going around in the district.

Q. Not knowing the situation in 1888, and having made a difference of ten per cent in those assessments, how did you know what had occurred to change the values of the property in your ward between the year 1889 and the year 1890? A. Well, sir, there is not a piece of property in the seventh ward that I have not examined personally, and been on the ground and formed an opinion by looking at the property myself, being an expert and knowing the valuations of property in that particular district.

Q. Were you an expert on valuations in that district? A. Yes, sir.

Q. Had you had that district before? A. I was in a clerical capacity there once.

Q. How long ago were you in a clerical capacity touching matters in that district? A. I was there as far back as 1876.

Q. Prior to 1876? A. About from 1874 to 1876 I was there in a clerical capacity.

Q. Did the clerical services that you rendered from 1874 to 1876 make you an expert on valuations in the seventh ward in 1890? A. No; it helped me some.

Q. What other elements of your expertness were there? A. Do you want me to tell you the reason I raised this \$1,949,000; is that what you want to get at?

Q. That is what I want to get at. A. Because, in my judgment, in September, 1889, when I started out in the seventh ward, I found that they were too low, and I could not swear as to the valuations placed on my district book when I went out, and would not swear to them.

Q. Have you taxed those properties at the values that they will sell for? A. Yes, sir; there is not a piece that will not sell for what I put on it.

Q. Is there a piece in your district that will sell for more than your valuations? A. Yes, sir.

Q. A great many pieces that will sell for more? A. Yes, sir.

Q. How much more will they sell for? A. They will certainly sell for that.

Q. Won't they sell for twenty per cent more than your valuation? A. They might.

Q. They might sell for thirty or forty per cent more, might they not? A. That would depend upon what might come up between the purchaser and the seller.

Q. You have referred to the operations of your conscience as touching your oath? A. Yes, sir.

Q. Will you tell us where your conscience comes in in relation to your oath, where you can swear to a twenty per cent basis, a thirty per cent basis or a forty per cent basis? A. My oath does not cover that.

Senator FASSETT.—Suppose you tell us what you think is covered by the phrase "ordinary circumstances?"

The WITNESS.—The construction I put upon that phrase is this, the valuation placed on property with safety to the taxpayer and with safety to the city, with a good leeway to the taxpayer.

Q. Ten per cent? A. Perhaps; my valuations could not be reversed by any court.

Senator FASSETT.—What do you mean by saying that you regard the ordinary circumstances under which property is sold, to be a valuation which shall be a safeguard to the city and at the same time give the taxpayer a leeway. Please tell me, if you can, what constitutes ordinary circumstances for the sale of property?

The WITNESS.—Ordinary circumstances for the sale of property is this, that the valuation that I place on each and every parcel of land or property in that district, will sell for that under the most ordinary circumstances.

Mr. IVINS.—What do you mean by the most ordinary circumstances?

The WITNESS.—Ordinary circumstances. I withdraw the word "most."

By Senator FASSETT:

Q. What are the ordinary circumstances of sale? A. The ordinary circumstances of sale is what it will sell for at any time, with a fair leeway for the taxpayer; he won't get any the worse of it, allowing for fluctuations.

Q. Can not you answer that question, what are the ordinary circumstances for the sale of property in the city of New York? A. What are the ordinary circumstances for the sale of property?

Q. Yes. A. The ordinary circumstances for the sale of property?

Q. Yes. A. Well, what one would give to another.

Q. That is not the ordinary circumstances of a sale, that is the ordinary purchase price of a sale? A. Yes.

Q. What do you understand that phrase to mean, ordinary circumstances, do you understand it to mean the method of sale or the price for the property? A. In my judgment, the sum which the said property will sell for under ordinary circumstances.

Q. Well, now, what are ordinary circumstances of a sale? A. What it would sell for.

Q. What it would sell for? A. Yes; under ordinary circumstances; ordinary circumstances, that means no depression, no boom, the ordinary way of selling it.

Q. What is the ordinary way; is it by auction, or is it by private sale? A. You take them combined; you have got to gather in both.

Q. What is the most ordinary way of selling property, by private contract, or by auction or by foreclosure of mortgages? A. Well, the ordinary way — there are so many ordinary ways; a man may go and boom it in the market, and another man have an object to sell and buy property.

Q. Those are the forces that move to the sale of property; now what are the ordinary methods by which the sale of property is regulated?



A. The ordinary method is where the piece of property is known to be for sale and the different bids taken into consideration by different buyers.

Q. Are more pieces of property sold by auction than are sold by private sale? A. I think not.

Q. Do most of the transactions in real estate in this city take place at the Real Estate Exchange? A. I do not think they do; I think most of them are at private sale.

Q. Then would you not say that the ordinary method of the transfer of property in this city was at private sale? A. Yes, sir.

Q. And that property that was sold in that way was sold under ordinary circumstances? A. Yes.

Q. Then would not the average price which property brings at those ordinary sales be a pretty fair basis for estimating the value of property selling under ordinary circumstances? A. Fair; yes, sir; if you can get at what they do pay; that is very hard to get at; now there are transfers recorded which, in my judgment, are untrue.

Q. Fictitious values? A. Yes, sir.

Q. And then others with nominal values? A. Very true; yes, sir.

Q. Can any reliance whatever be put on the valuations as given in the deeds where property is transferred under ordinary circumstances? A. Not at all times; no, sir.

Q. Well, do you mean that there are sometimes when no reliance can be placed upon them? A. Yes, sir; very frequently; the amounts are placed in the deed to misconstrue, to get purchasers in that particular portion of the city; you have got to rely on your own judgment to place valuations on them.

Q. Supposing transactions of real estate here for two or three months were averaged, would that be a proper basis for estimating the value of property? A. In my particular district?

Q. Yes. A. I do not think it would.

Q. You do not think it would? A. I do not think it would; I think there are more fictitious sales in that particular district than in any other district in the city, sir, in my judgment.

Q. Well, would the amount of money which is loaned upon buildings in your district be a fair basis of what the business community regarded the value of the property to be? A. If that was known as a fact, it would be a good guide.

Q. If you could get at it? A. Yes, sir; if I could get at the fact it would be a great guide to me.

Q. Now, that there may be no misunderstanding between us, you mean that in fixing these values you are positive that in every instance

you fix a value which the property would bring under ordinary circumstances? A. Yes, sir.

Q. You do not mean to say that, under ordinary circumstances, each piece of property might not bring considerably more than the value you fix? A. No, sir.

Q. You would not be surprised if it did bring more than the values they are fixed at? A. I would expect that it would bring some more.

Q. You would expect it would bring some more? A. Yes, sir.

Q. Have you in your mind any notion as to what the average excess would be? A. Well, possibly anywhere from fifteen to thirty per cent.

Q. Anywhere from fifteen to thirty per cent? A. Yes, sir.

Mr. IVINS.—Fifteen to thirty?

The WITNESS.—Yes, sir.

Q. Do you think that you, by the increase that you have made, have placed your ward or your district relatively on a higher basis than the other districts in the city? A. No, sir.

Q. Do you think that, since that raise it comes nearer to an equalized basis of eighty per cent; do you think it comes nearer to bearing its just burden than it did before? A. It does in my judgment.

Q. If you have made a margin of from fifteen to thirty per cent after the raise of ten per cent, previous to that it must have been from twenty-five to forty per cent? A. Well, I had nothing to do with that; in 1888 and 1889 are two different years, Mr. Fassett; we go out from year to year; I may alter it again next year; you can not tell what the circumstances would be.

By Mr. IVINS:

Q. Would you consider that you were violating the oath that you then subscribed to on those lists, if you assessed property at only fifty per cent of what it would sell at under ordinary circumstances? A. Would I consider it; yes, sir.

Q. Would you consider it a violation of your oath if you were to assess property only at ten per cent under what it would sell for under ordinary circumstances? A. Well, no, sir; I do not know as I should.

Q. Well, now, will you explain to us why, in one case fifty per cent would be a violation of the oath, and in the other case ten per cent would not be a violation of the oath? A. Well, I am not supposed to put on what we call a hard valuation; a high valuation for the taxpayer; I am going out and assess this property, and if any of the heads of the department say to me Mr. Perry, in your judgment, are

you perfectly satisfied, after making an increase of from fifteen to twenty thousand dollars, that under ordinary circumstances it would sell for \$20,000, are you positive of that?" I should say yes, sir.

Q. This is your seventh ward field book; is it not [producing book]?

A. Yes, sir.

Q. I take it at the page at which I have opened by chance, pages ninety-four and ninety-five — take page ninety-five; I find that the name of the owner is entered in pencil; I find that that is the rule necessitated, I suppose, by the fact that the work is done in the field?

A. Yes, sir.

Q. I find then the description of the property, showing the size of the lot, showing the size of the house, showing the number of stories high and the number of houses on the lot; the ward numbers are entered in red ink; that is the only ink entry in the book, is it not?

A. Yes, sir.

Q. That is the only unerasable entry in the book? A. Yes, sir.

Q. Now, I find for the year 1890, the figure \$33,000 entered against numbers 2,261 to 2,264, inclusive? A. Yes, sir.

Q. It is apparent on its face that there has been an erasure there?

A. Very likely there has.

Q. For the year 1891, I find that it is \$33,000? A. Yes, sir.

Q. And I find that there has been an erasure there; that the figures \$32,000 have been apparently attempted to be rubbed out, but not rubbed out? A. Yes, sir.

Q. For ward numbers 2,257 to ward numbers 2,260, inclusive, I find \$28,000 entered as the valuation for 1888, 1889 and also for 1890; I find that there was an erasure made, however, of a figure which is now undecipherable; I find that for the year 1891, which is the present year, \$28,000 had also been entered, and \$30,000 has been written over that; that is the work you are now doing in the field? A. Yes, sir.

Q. This figure, \$30,000 for the year 1891, is the figure made for the work that you are now doing in the field? A. That has not been determined on for 1891; I am out in the field now.

Q. Did you write in the figure \$28,000 here? A. No, sir.

Q. Who did? A. I may have.

Q. Did you write the figure \$30,000 over the \$28,000? A. Yes, sir.

Q. Tell us why you increased that particular lot from \$28,000 to \$30,000? A. I consider those four pieces of ground now worth \$2,000 more than they were worth in 1890.

Q. Than they were in 1890? A. Yes, sir.

Q. What has occurred to the property itself, or in the neighborhood

of the property, which has led you to take the initiative steps toward increasing that to \$30,000, as against \$28,000 for the present year?

A. In my judgment it is worth now \$30,000 for the year 1891.

Q. Now, tell us what the elements of your judgment are? A. Well, that would sell for that under ordinary circumstances; positive of it.

Senator FASSETT.—Would that have sold for that last year under ordinary circumstances?

The WITNESS.—Well, I was doubtful last year.

Q. You were doubtful last year whether that would sell for \$30,000? A. Certainly.

Q. You were confident that it would sell for \$28,000? A. Yes, sir.

Q. Now, you feel equally confident that it would sell this year for \$30,000? A. I do.

Q. Now, won't that sell for \$40,000? A. I don't know; I am positive that would sell for \$30,000.

Q. You are positive they would sell for \$5,000; are you not? A. Yes, sir.

Q. Now, what documents or papers have you to show what the last real estate transactions in that neighborhood were? A. I do not go by real estate transactions.

Q. You do not go by real estate transactions at all? A. Not to a great extent; as I told you, they are not reliable.

Q. What do you go by; locations? A. By locations; surroundings.

Q. Now, I want to find out what location means? A. Location means the character of the property and conditions of the property, and what it would sell for.

Senator FASSETT.—And the surrounding and adjoining property?

The WITNESS.—Yes, sir; all of which is taken into consideration.

Q. Transactions apart? A. Yes, sir.

Q. Will you explain to us how there can be such a thing as locations with value attached if you set aside all considerations of actual transactions? A. I do not set aside all; I say I am not guided wholly by transactions; to an extent it helps me also in forming my judgment.

Q. In going back to your book, I find here on lots ward numbers 2245 to 2252, inclusive—that is, at page 95—that that was assessed at \$80,000 for the year 1889? A. Yes, sir.

Q. And for the present year, 1890, you assessed it for \$100,000, and for the year 1891, you appear to have written in \$100,000, and under that you have written the word "open?" A. Yes, sir.

Q. Now, what does that word mean? A. The word "open" was intended to have been placed in there last year to make a guide for this; that was open when I was out last year, and I made this on



the supplemental report after going out again — what we term a supplemental report; we finish one ward at a time, and then we go around again the last part of the season and bring in our final reports, which I have here.

Q. What do you mean by the word “open?” A. Open for reconsideration.

Q. How long do you keep a thing of that kind open for reconsideration? A. That was open for reconsideration between September and the last day of December.

Q. Why should one case be kept open for reconsideration and not another? A. So as to familiarize myself more with it and understand the reason that that was as low as \$80,000.

Q. Why should you make any entry then, whatever, until you have done with that piece just what you have done with the other piece and satisfied yourself? A. Because I had come to a conclusion on the other piece, and on this I had not come to a conclusion.

By Senator FASSETT:

Q. You assessed this same piece at a hundred thousand dollars last year, didn't you? A. Yes, sir.

Q. This seems to be adjoining to this other piece that you raised \$2,000? A. Yes, sir.

Q. Is there any reason to suppose that this lot has deteriorated in value while this other has increased in value? A. That one particular piece?

Q. Yes. A. I think the raise I made from eighty to a hundred thousand dollars covers also this piece; there I made no raise, whatever, as I considered it was a little out of line; the great thing for a tax assessor is to avoid equalization so these lawyers can't come in with objections; all their objections are based upon inequalities.

Q. You think you might possibly have raised this a little too much last year? A. Not at all; no, sir; that is an entirely different thing.

Q. And you hold it open to consider not whether you will keep it at a hundred thousand dollars, but whether you will raise it some more? A. No, sir; that “open” was put in when I first went in the district; I waited until December, when I went around again to make my supplementary report, to see what further I could learn in regard to it and to take a further look at it.

Q. This property here numbers 2261, etc.? A. That is an entirely different thing.

Q. Those are little matters and do not amount to anything compared with the others; are they in the same ward? A. Yes.

Q. Right along, contiguous? A. Yes, sir.

Q. But they remained on the same valuation from 1888 to 1891?  
A. Yes, sir; I considered that valuation was a good one; that was in conformity with my idea of the law.

By Mr. IVINS:

Q. Just turn to the map there? A. This piece of property which I raised is a sugar refinery.

Q. That is this? A. Yes, sir; that is 2245, 2246, 2247, 2248, 2249, 2250, 2251 and 2252.

Q. That has buildings on? A. Yes, sir; a large four-story building; that is entirely covered with a building 135 feet by 140 feet.

Q. Let us see what it is? A. Twenty-two hundred and forty-five, 2246, 2247, 2248, 2249, 2250, 2251, 2252 and 2253, including this down here also.

Q. Where does that come in — that does not show here? A. Yes? it includes ward numbers 2017 to 2024 on Water street, page 85.

By Senator FASSETT:

Q. This is more than one-third of the block? A. Yes, sir.

By Mr. IVINS:

Q. Then you have assessed the end of the block between South and Water streets and facing on Montgomery street, being sixteen lots having ward numbers 2017 to 2024 inclusive and ward numbers 2252 to 2245 inclusive at \$100,000? A. Yes, sir.

Q. For the sixteen lots? A. Yes, sir; for the sixteen lots with the building covering all that ground.

Q. What is the character of the building? A. It is a four-story building entirely covered, known as the Glen Cove Starch Company, a very fine building; they have put in an application for a reduction of it.

By Senator FASSETT:

Q. Even at that valuation they have not asked for a reduction? A. They have never asked for a reduction at that valuation.

By Mr. IVINS:

Q. Is that entire ground covered by a building? A. Yes, sir.

Q. Or does the building cover only part of the ground? A. It is 185 by 140.

Q. It is a building 185 by 140? A. Yes, sir.

Q. And the building covers the entire sixteen lots? A. Yes, sir; there is some little irregularity about some of those smaller buildings; but it is covered generally.

Q. Are these lots built on? A. Which ones?

Q. Lots numbers 2257 to 2260, are those ward numbers built on? A. Yes, sir.

Q. Are there any parts of these lots that are not built on? A. No.

Q. It is all built up? A. Yes, sir.

Q. How are numbers 2257 to 2260 built on? A. A five-story building about seventy feet deep.

Q. Are 2261 to 2264 built on? A. Two thousand two hundred and sixty-one to 2264 are built on; yes, sir.

Q. What is the character of the building on those four lots? A. A fair building — no such building as the \$100,000 building.

Q. No such building as the \$100,000 one? A. No.

Q. Not so good a building? A. No.

Q. Is that corner, the Clinton street corner, generally speaking, as good a corner as the Montgomery street corner? A. Yes.

Q. It is just as good a corner but a much poorer building? A. Yes, sir; a much poorer building.

Q. And you have assessed these four lots with the poorer building— Senator FASSETT.— Eight lots, isn't it?

Mr. IVINS.— No; four lots.

Q. You have assessed these four lots on an equally good corner at \$33,000? A. Yes, sir.

Q. And you have assessed sixteen lots on the other end of the block with a better building on at a hundred thousand dollars? A. Yes, sir.

Q. Four times thirty-three are \$130,000, isn't there a discrepancy at once in the basis of assessments between the assessment on the Clinton street four lots and the sugar refinery property on the Montgomery street lots? A. The 2261 to 2264 there is a corner; you know when you include this hundred thousand dollars you include a lot of inside lots here.

Q. What inside lots do you include? A. Anything after you leave 100 feet I consider an inside lot; here you have got a whole frontage on Clinton street as well as a whole frontage on South street; you can stake a lot either way and have a double frontage; there is not a double frontage here.

Q. There is a double frontage one on South street and one on Water street? A. Yes, sir.

Q. There are eight available lots? A. Yes, sir.

Q. And eight inside lots? A. Yes; and we will put these eight at \$63,000 to compare with that, and put these eight in at \$34,000; that is a hundred thousand dollars; do you see any inequality there?

Q. Won't those eight inside lots sell for more than \$34,000? A. I would not want to give more than that for them.

Q. Do you believe under your oath on this stand that you could, by any possibility, buy these four lots for \$34,000? A. I do not know as I could.

Q. Do you believe that you could, by any possibility, buy that parcel on which the sugar refinery is, with sixteen lots, at a hundred thousand? A. No, sir; I don't say that I could.

Q. Could you buy it at \$200,000? A. Undoubtedly, I think; I would not want to give \$200,000 for it.

Q. What would you want to give if you could buy it? A. I am not buying; I should not advise any one to give \$200,000 for it; but that is this corn starch business; I am not here to tell you what I will give or what I will take; I am here to say that I have subscribed to my oath and that is this, that I have placed a fair valuation on that property at what it will sell for under ordinary circumstances.

By Senator FASSETT:

Q. One end of this block here you have raised 25,000 on the old valuation? A. That is taking the entire thing.

Q. Taking the entire sixteen lots? A. Yes, sir; that is an exceptional place; the situation is very nice; they have got Montgomery street, Water street and South street.

Q. You have raised that twenty-five per cent on the old valuation? A. Yes, sir.

Q. Then mid-way you have raised it about six and a half per cent on the old valuation? A. I found that in my judgment a great deal better than I did this.

Q. And the other end of the lot, the tobacco end, you have not raised at all? A. No; you see after I raised this, this happened to be in my judgment, what I thought was a fair assessment to keep under the law.

By Mr. IVINS:

Q. Now, I want to ask four or five questions, and I want you just to answer those questions; you have assessed the four lots on the Clinton street end at \$33,000? A. Yes, sir; you must state the ward numbers.

Q. Ward numbers 2261 to 2264? A. That is correct; yes, sir.

Q. At \$33,000? A. Yes, sir.



Q. And although it has only one corner covered by a building, instead of two corners? A. Yes, sir.

Q. And although the building is not so good a building as the building on the Montgomery street end? A. No; it is not so good a building.

Q. Now look at your book and tell me what the aggregate assessment of the sixteen lots at the Clinton street end is? A. Put down from 2261 to 2264?

Q. Twenty-two hundred and sixty-one to 2264 is \$33,000? A. Yes, sir.

Q. Now from 2005 to 2008? A. Put that down at \$28,000.

Q. Now from 2257 to 2260? A. Put that down at 2,000 each; they are vacant lots.

Q. Are 2010 to 2012 vacant lots? A. No, sir; they are built on; put that down at \$25,000.

Q. How is 2009? A. That is included; it is 2009 to 2012 inclusive.

Q. That is built on? A. Yes, sir.

Q. What is that? A. Twenty-five thousand dollars.

Q. The result of which is that these sixteen lots, four of which are not built on, are assessed at \$94,000, whereas the sixteen lots at the other end covered by one single building, and that you say an exceptionally fine building as compared with the buildings on the other parcel, were assessed at 100,000? A. I did not say as compared with the buildings on the other parcel.

By Senator FASSETT:

Q. You said that they were not so good? A. I thought not.

Q. You have assessed that \$94,000, whereas the Montgomery street end is assessed at \$100,000? A. Yes, sir; you will observe that the Montgomery street end is the only one that has been raised; that was raised from \$80,000 to a hundred thousand dollars; the others stand as they did before, with no raise.

Q. What is the character of the buildings on the inside lots, numbers 2009 to 2012 on Water street? A. It is a three-story building, seventy-one and a half feet in width, and seventy-three feet in depth.

Q. And was assessed at \$25,000? A. Yes, sir.

Q. For those four? A. Yes, sir; that is correct.

Q. Now you state that if the eight lots on Montgomery, South and Water streets were assessed at the same value that you have assessed the four lots on the corner of Clinton and South, that that would make \$66,000, leaving 34,000 for the eight inside lots — didn't you? A. Have you got the valuation of the sixteen now before you?

Q. Yes. A. How much do you make that?

Q. I am not talking about those sixteen. A. You are making comparisons.

Q. Of course, I am making comparisons; that is what I am here for; I find that the lots 2261 to 2264 are assessed at \$33,000? A. That is right.

Q. If that same rule were to be applied to the lots 2245 to 2248, and 2021 to 2024, that would be \$66,000, wouldn't it? A. Yes.

Q. And leaving \$34,000 for the eight inside lots? A. Yes.

Q. Then, if \$34,000 were left for the eight inside lots; that is, for lots 2249 to 2252, and 2017 to 2020, how is it that further up the street, with a building of a different character, four lots, 2009 to 2012, are assessed at \$25,000 as against \$34,000 for eight lots? A. This is the better building on these eight lots here.

Q. This is a better building on the eight lots? A. Yes, sir.

Q. And still, although there is a better building on the eight lots, you only assess the eight lots with the better building on at \$34,000, when you assess four lots with a poorer building on at \$25,000? A. Well, not so loud, Mr. Ivins; let us understand this again; that is not so at all; you are jumbling up, and you are trying to make a case against me that will be impossible when you come down to it.

Q. Now, just explain? A. You say that these eight lots here are assessed for how much?

Q. These eight lots, on your own theory, are assessed at \$34,000? A. You see, I assess those the same as that; I do not claim that I assess those at \$66,000 as against \$33,000, for that is an entirely different thing, when there are two separate buildings on a piece of property; there is an entire difference in valuation; this is one building.

Q. Is the value of the land at that end as great as at this end? A. Yes; about.

Q. The only difference in the value is the difference in the value of the structure? A. Very true; and you will remember that this is one building, and not two separate buildings.

Q. This is one building? A. Yes, sir.

Q. And a better building than this building here? A. In my judgment; yes, sir.

Q. Then these eight lots at this end are certainly worth as much as the eight lots at that end, are they not? A. Very true.

Q. And these four lots on the Montgomery and South street corner, with that particular building on, are certainly worth as much as these four lots on the Clinton and South street corner? A. Yes, sir.

Q. If they are worth as much, those four lots would be worth at least \$33,000, because they were assessed at \$33,000? A. Yes, sir; and there is one building there.

Q. Are the lots 2021 and 2024, on the Montgomery and Water street end, so far as the land is concerned, as valuable as the land on Clinton street? A. I think Clinton street has a slight preference.

Q. But, as a matter of fact, would you say that, in view of the character of the building on the Montgomery and Water street end — that the assessed valuation of those lots, numbers 2021 to 2024, was at least as much as the assessed valuation of the lots corner of Clinton and South street? A. I say that I consider that is a trifle better; the ground on Clinton street.

Q. You think that is a trifle better there? A. Yes, sir.

Q. Do you think that \$66,000 for the eight lots at the Montgomery street end of the block would be a high assessment?

By Senator FASSETT:

Q. Irrespective of the buildings and in view of the fact that the building was a good one, do you think that \$66,000 would be a high assessment as compared with \$33,000 for the south and Clinton street end? A. I do not think it would be high.

Q. If it were not high, and were a proper assessment, that would then leave \$34,000 of the \$100,000 assessment fall on the eight inside lots, would it not? A. Yes.

Q. Now, we have lots 2009 to 2012? A. Yes, sir.

Q. Which are the inside lots? A. Yes, sir.

Q. How are they built on? A. They have a three-story building on.

Q. Does that building on those four lots correspond at all to the building on the sugar refinery end? A. Yes; the rear end of this building, you know, and this is a building by itself; this is a separate building all by itself, and this is the rear end of this building here.

Q. Of course, this is all one big building at the Montgomery street end? A. Yes, sir.

Q. Will you tell us now how you can justify assessing the eight lots— A. I do not assess the eight lots; I assess the sixteen in full with the building on; I assessed it at a hundred thousand dollars.

Q. Then, will you tell us why it is that, assuming eight of those lots — A. I don't assume eight of those lots.

Q. Well, I assume it? A. I don't; I assessed it in bulk; you put up the sixteen lots against those four.

Q. You can answer my question yes or no, or you can say you won't answer it; just as you please; assuming that the eight lots at the

Montgomery street end of that lot are worth \$66,000, it would leave only \$34,000 for the inside, wouldn't it? A. I take the whole piece in bulk at a hundred thousand dollars.

Q. Very well; then we will take the whole piece in bulk; do you mean to tell me that those sixteen lots, with a single building on the whole sixteen lots fronting on three streets, is only properly assessable at a hundred thousand dollars, when you have assessed a three-story building on the Water street side of the block, 111 feet distant from the Water and Clinton street corner, at \$25,000? A. I do not think I am too high on the \$100,000 assessment; I raised that from eighty thousand to a hundred thousand dollars.

Q. I don't think you are too high; I think you are too low? A. We go very slow at that in the office; it is pretty hard to go out and find a man assessed at \$80,000, and then raise it at once to a hundred and fifty thousand dollars.

Q. You found a valuation of 20,000,000, and you gave a jump of 2,000,000 in one year? A. Yes.

Q. That is really a larger jump on the total assessment in that ward than the particular jump from \$80,000 to a hundred thousand dollars that you have spoken of here? A. Not at all; that is twenty-five per cent.

Q. You are right, this is twenty-five per cent; in how many cases have your jumps been twenty-five per cent to bring about the average jump of ten per cent? A. Wherever I thought it was necessary; you see I found this \$25,000, and I found this other at \$80,000, and it is pretty hard to run up from \$80,000 to a \$150,000 the first year.

Q. What is the character of the buildings on lots 2013 to 2016 inclusive? A. They are two story buildings, two of them.

Q. What were they assessed at? A. Fourteen thousand dollars; I found them \$8,000.

Q. Fourteen thousand dollars for the four lots? A. Yes, sir.

Q. You found them \$8,000 and raised them to \$14,000? A. Yes, sir.

Q. Could you buy them for \$14,000? A. I think not.

Q. Could you buy them for \$20,000? A. I might.

Q. You might possibly? A. I don't know what they would sell for.

Q. You found them at \$8,000 and you think they might sell at \$20,000, and you raised them to \$14,000? A. I do not know what they would sell for.

Senator FASSETT.—You are bound to know what they would sell for under ordinary circumstances.

Q. You think they would sell for \$14,000? A. I am not bound to assess them for what they would sell for; I give a good leeway.



By Senator FASSETT:

Q. You are assessing at what they would sell for and not at what they would bring? A. I am assessing at what they will sell for; they might bring a little more; of course, I am giving the taxpayer leeway.

Q. What is the largest increase that you have made there in that ward? A. That is the largest, I guess eighty to a hundred thousand.

Q. What is the largest single piece of property, single ward number, or lot, that is taxed together as one lot? A. I think I have another piece here that is about the largest piece — in the seventeenth ward.

Q. You also have the tenth ward, haven't you? A. Yes, sir.

Q. The total valuation of the tenth ward for this year was \$20,791,000? A. Yes, sir.

Q. I find that that ward was increased \$31,000 in 1881? A. Yes, sir.

Q. And it was increased \$142,000 in 1882? A. Yes, sir.

Q. It was decreased \$306,000 in 1883? A. Yes, sir.

Q. It was increased \$163,000 in 1884? A. Yes, sir.

Q. Two hundred and sixty-nine thousand in 1885? A. Yes, sir.

Q. Four hundred and sixty-three thousand dollars in 1886? A. Yes, sir.

Q. Three hundred and twenty-five thousand dollars in 1887? A. Yes, sir.

Q. Three hundred and eighty-six thousand dollars in 1888? A. Yes, sir.

Q. Two hundred and twenty-nine thousand dollars in 1889? A. Yes, sir.

Q. And you increased it \$1,949,000? A. Yes, sir.

Q. Or ten per cent of the entire valuation for the purposes of assessment for the present year is the sum by which the assessments were increased by you? A. Yes, sir.

Q. Will you tell us why you did that? A. There were a number of new buildings, and I find that district, in my judgment, the same as I found the seventh ward.

Q. Are there more new buildings in the tenth ward than there were in the seventh? A. I should judge about the same; I should judge of this eleven or twelve millions raised in the entire four wards there were possibly between three and four millions in new buildings.

Q. That is an eight per cent raise?

By Senator FASSETT:

Q. How much have you raised for the coming year? A. For 1891?

Q. Yes; can you answer that? A. No.

By Mr. IVINS:

Q. I found the total valuations for the thirteenth ward are \$13,263,000, and I find that you have increased the assessment \$1,805,000, between twelve and thirteen per cent? A. Well, that is on account of new buildings, new additions to houses and new stories in houses, and that comes under the general increase that I started in the seventh ward.

Q. In this ward have you taxed property at a hundred per cent of its fair market value? A. What do you mean by market value?

Q. What it will bring under ordinary circumstances? A. If I assessed it 100 per cent?

Q. Yes. A. No.

Q. Have you assessed it at ninety per cent of its fair market value? A. I have assessed it for what it would sell for under ordinary circumstances.

Q. What is the difference between what it would sell for under ordinary circumstances and what it would bring under ordinary circumstances? A. Well, it will bring that.

Q. Won't it bring more than that? A. I have given them a leeway; yes, I think it would.

Q. Would it bring ten per cent more than that? A. In some cases ten to twenty per cent; I said fifteen to thirty; I would not be surprised if it would bring that much more than what it was assessed for.

Q. Then the fact would be this, that while you, under oath, would not be blameworthy, even if you had assessed this property higher than you did? A. Not in my judgment, if I did it according to my judgment.

Q. Even if you had assessed this property higher than you have, even twenty or thirty per cent in many cases, you would still be acting within the law? A. If my judgment was such; yes, sir.

Q. The only complaint in the matter would be this, that if other tax assessors did not make their assessments on the same basis through the city, then there would be an inequality between the taxpayers in that district where you had complied with the law more nearly as compared with the districts where the deputy tax commissioners hadn't complied with the law so nearly? A. Each one has got to look out for his own district; I pay attention only to my own.

Q. But if there is complaint on the part of the taxpayer you do not think the complaint is your fault but is the fault of equalization? A. I am talking about my district, if there is a complaint made or an application put in for reduction on the basis of inequality in any portion of the district.

Q. Is it not a fact that the increase proportionately to the prior assessments has been greater in your four districts than it has been in any other district in the city? A. No; I think the twelfth ward has a larger increase than I have.

Q. No; I do not say a larger increase; I mean a larger increase proportionately? A. I do not know but what I have the largest.

Q. Proportionately you are the largest in the city? A. Yes, sir; I think I am.

Q. Then, it is apparent on its face that there is some difference of practice, not only of practice but of theory as between yourself and the other deputies? A. I can not state that; they are all there.

Q. But, do you know of anything that has been done by the board for the purpose of equalizing your theory and practice with the theory and practice of the other deputies? A. We were never brought in contact with one another and no comparison made of different districts as I know of.

Q. The entire assessed valuations for the seventeenth ward were \$41,022,000? A. That is for the year, 1890.

Q. For the present year? A. Yes, sir.

Q. You increased the valuations for this year over last year \$5,745,000? A. Yes, sir.

Q. Which increase is about thirteen per cent of the entire present valuation? A. Yes, sir.

Q. Now, why did you increase the valuations thirteen per cent there? A. There are new buildings; some were new buildings, some were improvements on old buildings, and then under the general increase of the balance of the district; the reasons are given for each and every piece right here.

Q. Is the seventeenth ward map here? A. Yes, sir.

Q. What is the most marked individual case of increase in the seventeenth ward? A. No particular one; it is general right through.

Q. Are there any such cases as that one we have just discovered where the sugar refinery property or starch factory is? A. A twenty-five per cent raise?

Q. Yes. A. Yes, sir; but in smaller cases, not large cases.

Q. There is no twenty-five per cent advance in any large piece there? A. No.

Q. Is there anything more you want to say about these increases? A. I have nothing to say, if I have satisfied you.

Q. Is Mr. Martine still in the office of the tax commissioners? A. Yes.

Q. What is he doing? A. He is in a clerical capacity.

Q. What sort of clerical work does he do — is he a deputy's clerk?

A. Yes.

Q. In the field? A. He is what you call a sort of a floating clerk.

Q. What does the floating clerk do besides float? A. He attends to any property owners that may come in and describe different pieces of property in the different wards to them and show them the maps and records.

Q. Is he the man who made all these assessments in your four wards for the years 1888 and 1889? A. Yes.

Commissioner FEITNER.—He was then a deputy.

Q. He was then a deputy? A. Yes sir.

At this point the committee took a recess until 2.30 o'clock P. M.

#### AFTER RECESS.

ELISHA J. CADWELL, having duly affirmed, testified as follows:

By Mr. IVINS:

Q. Will you explain to the committee the process of assessing and taxing personal property from the first step which is taken to fix an assessment through the entire process to the end? A. In the first instance, the names that remain on the roll after they close on the first day of April of each year, are carried forward into the rolls of the following year, and in most instances at the same valuations.

Q. Does that include the names of those whose personal tax was stricken off the previous year? A. No; those that remain on the roll, those names are carried forward into the new rolls of the succeeding year; then we get the reports from the surrogate's office in the matter of estates and the county clerk's office in the matter of new firms, etc.

By Senator FASSETT:

Q. You mean new corporations? A. No; new firms and corporations.

Q. And joint-stock companies? A. And joint-stock companies.

Q. That is, you get the reports from the county clerk's office of all the new concerns that are required by law to file a report of their creation there? A. Yes, sir; and when they first enter upon business here in the city of New York, they are all required to file their statements there, and the firms and the individual members of the new firms.

By Mr. IVINS:

Q. Then what other names are added? A. Then we go through the directory and take the names from that.

Q. The business directory? A. The city directory.



Q. Trow's City Directory? A. Trow's City Directory.

Q. What names do you pick out from that? A. Well, we pick out the best names, such as merchants, importers, and sometimes lawyers, anything we think is liable to a tax.

Q. Then in that way you get back on the list a number of names that was stricken off the list the previous year? A. No; we intermit the names usually; unless we have special information, we intermit any names one year; for instance, a man put on in 1889 wouldn't go on again until 1891, unless we had some special information about it.

Q. But you get in each year a list which results in a necessity for striking out about \$2,000,000,000 each year, nevertheless? A. Oh, no.

By Senator FASSETT:

Q. A thousand and a half millions? A. Not 2,000,000,000.

By Mr. IVINS:

Q. You struck off over 2,000,000,000 this year, didn't you? A. I don't remember what the amount was that was stricken off — oh, that includes corporations.

By Senator FASSETT:

Q. The whole amount of personal taxes? A. Yes; the whole amount of personal taxes.

By Mr. IVINS:

Q. All told you struck off over \$2,000,000,000? A. No; because the whole assessment didn't amount to \$2,000,000,000 — about \$1,680,000,000, I think.

Q. That was what the assessment amounted to, but what did your books show before you began striking off? A. That is what they showed on the opening, I think; I will give you the figures presently.

Q. My recollection is it was something like \$2,480,000,000. A. No, sir; that is a mistake.

Q. What appeared on the books at the opening — I don't mean on the books at the opening of the books — but what was the assessed valuation for which you sought to hold the parties for the payment of taxes on personal property? A. That is the gross valuation you refer to?

Q. Yes. A. One billion six hundred and thirty-eight million dollars.

Q. Of which how much was stricken off? A. The amount held was \$229,000,000 — \$230,000,000 in round numbers.

Q. So that you struck off over \$1,400,000,000? A. Yes, sir; \$1,409,000,000.

Q. Now, what is the object of going back and putting on the books

again year after year the names of persons who represent such a volume of property as that for the simple pleasure of striking them off subsequently? A. There is not so much put on to the individual person; that is mostly corporations; if we find a corporation representing a capital of several millions we have to put them on the books, and while they may be able to swear off one year they might not the second year.

Q. What was the total increase of assessments upon personal property for this present year that were actually held? A. It was about \$6,800,000 in round numbers of the increase.

Q. That is the increase? A. Yes, sir.

Q. That excludes corporations? A. That is exclusive of corporations.

Q. So that the entire increase of assessments for personal taxes for the present year exclusive of corporations has been a little over \$6,000,000? A. About \$6,800,000 in round numbers.

Q. What is the gross increase of assessments for personal taxes including corporations? A. Twenty-four million nine hundred and sixteen thousand dollars.

Q. Leaving about \$18,000,000 increase for assessments for personal property for the purpose of taxation on corporations? A. Yes, sir; nearly \$20,000,000 on corporations.

Q. Now, how do you account for it that their is nearly \$20,000,000 increase on corporations this year over last year? A. In the first place the old companies that remained on the books, there was quite an increase in the valuation of, from the statements of former years, and then we added from 200 to 300 corporations to the roll, new corporations that had not heretofore been assessed.

Q. That had not heretofore been incorporated? A. That had not been incorporated—new corporations.

Q. Well, anything else? A. Nothing else as far as relates to corporations; there was the addition of new names and the increase of assessments; the old ones were taken from last year.

By Senator FASSETT:

Q. Have you a record of the corporations that paid taxes and assessments as shown in the opening of the books, together with their assessments as actually finally fixed? A. Oh, that same assessment-roll is corrected; we have one column for assessed valuations and one for corrected valuations.

Q. That statement is nowhere in the annual report of the tax commissioners, is it? A. No; except in this general way—not in each single case, but in the aggregate.

Q. It is simply in the aggregate? A. Yes, sir.

By Mr. IVINS:

Q. After these names have been put on the list, what do you do?  
A. Send notices to each company and each individual.

Q. And then these companies and individuals do what? A. If they consider themselves aggrieved they call and make corrections before the commissioners.

Q. Do they come to you before they go to the commissioners? A. No, sir; I have nothing to do with them.

Q. They go to the commissioners in the first instance? A. Yes, sir; I have no power to correct assessments.

Q. Do you never suggest reductions? A. I never have suggested any reductions that I know of, no special ones that I recollect of; the commissioners have usually called upon me for data in regard to the taxable valuation of the property.

Q. No name, however, goes on that list unless you put it on? A. It is put on under my direction; I put on very few individually.

Q. You don't do the physical work of writing them on? A. I do very little of that.

Q. Who does the work of going through the directory and picking out the names? A. I do part of it and the clerks in the office do part of it.

Q. What clerks? A. There is a deputy in the department besides myself.

Q. What is his name? A. Mr. Kellock, Mr. William Kellock; he and myself do the principal part of that work.

Q. Do any other clerks assist in putting names on the list? A. Not except under our direction.

By Senator FASSETT:

Q. What directions do you give to your clerk who is engaged in taking these names out of the directory? A. We put against each name that is to go on two black checks, lead pencil checks, and he takes the directory and copies them on to the rolls.

Q. How many names are there altogether in the directory? A. I don't know.

Q. Have you any undeviating rule of selection? A. No, sir.

Q. It is a game of guess, isn't it? A. Almost entirely.

Q. There is nothing in the directory to indicate what a man or a woman owns in personalty? A. No.

Q. You are guided by the description of the occupation? A. By the description of the occupation and the location.

Q. By the part of town they live in? A. By the part of town they live in.

Q. Have you any data of any kind by which you determine the amount which you will place against each individual name other than the names of corporations and firms? A. No; except I go by my own judgment in the matter; that is all, unless I have some special information which I sometimes get from newspapers.

Q. What information you have, is that such as you can pick up from the daily press, from conversations, from your general knowledge of the manner in which people in certain walks of life are supposed to live? A. Yes, sir.

Q. Did you ever estimate what the actual personal wealth in this city of its inhabitants was? A. I never have estimated it.

By Mr. IVINS:

Q. Is there any means of making such an estimate?

By Senator FASSETT:

Q. That is the next question; is there any method by which you could make such an estimate? A. I don't know of any; I don't think it would be possible.

Q. You don't think it would be possible? A. No, sir; not to my mind.

Q. Is there anything like an approximation of such an estimate contained in either any State or federal census? A. I have not examined that sufficiently to answer that question.

Q. You never looked to see? A. No, sir; I was going to say that in the time of the internal revenue we resorted to that list a good deal.

Q. That is, when the internal revenue taxes were levied, you used that as a basis? A. Yes, sir; we used that as a basis.

Q. How long have you been in the tax department? A. Since July, 1859.

Q. Have you been engaged all this time in this particular branch? A. No, sir; I was a clerk in the office until 1869.

Q. How long have you been engaged in this particular business of assessing personal property? A. Since December, 1869.

Q. Thirty years? A. No; that would be about twenty years.

Q. Twenty-one years? A. Yes, sir; I have been in the office thirty-one years last July.

Q. When a name is once put off the list, does it stay off only one year? A. Usually that is the rule; we intermit one year unless we have some special reason for putting it on the next year.

Q. That is true of individuals as well as corporations? A. No, sir; not of corporations — excepting new corporations.



Q. That is, when a corporation's name is once off it stays off?  
A. No, sir; it goes on the second year; a great many of these new corporations that are formed put in a nominal capital, and every year that they appear, when we get them from the county clerk's office, they are put on to the roll, but we find upon examination there is no capital paid in, and no stock issued, although they are on the roll for the amount of their nominal capital; in that case the corporation is intermitted for one year.

Q. Can you tell what amount of the \$229,000,000 that remains on the receiver's book is assessed, against what I will call private individuals, as distinguished from estates, from banks and from corporations? A. No; I couldn't tell that.

Q. You can't tell that? A. No.

Q. Your books will show that in detail, however? A. Yes; they will show by my going over the assessment.

Q. Are you able to tell us what percentage of that is assessed against private individuals? A. No, sir; I couldn't form any idea of it, because I have never looked into that; I can tell the amounts that are assessed to the corporations.

Q. Corporations and banks? A. Yes, sir; that detail is in here [referring to annual report].

Q. Does this \$229,000,000 include the personalty that is assessed against banks? A. Yes, sir.

Q. That is in the neighborhood of \$65,000,000? A. Sixty-five million dollars, or \$68,000,000.

Q. It is \$69,000,000, I see? A. That is the original assessment; this is the amount remaining on the receiver's book, this amount here.

Q. Sixty-nine million dollars of the \$230,000,000 is assessed to banks? A. Yes, sir.

Q. Twenty-six million dollars to other corporations? A. That is the increase.

Q. Only the increase? A. Only the increase; here is the list here.

Q. These are resident individuals? A. Yes, sir; and these others are the non-residents.

Q. This total on page 23 of this report for 1890, shows that of the \$229,000,000, there is assessed against resident individuals \$113,000,000? A. Yes, sir.

Q. So that almost half of the entire assessment is made by individuals? A. Yes, sir; individuals and estates.

Senator FASSETT.—Mr. Ivins, do you want to examine any further in this direction?

Mr. IVINS.—No, sir; that is all I want.

By Senator FASSETT:

Q. Are you familiar with the class of corporations known as co-operative loan and building institutions? A. Well, not specially; I know there are a good many of them in the city of New York, and we put them on the rolls.

Q. Are they all put on the rolls? A. Well, not all of them; not all in one year; we put them on as they appear in the book.

Q. Do you know how many of them remain on the roll? A. I don't think that we have got one.

Q. How about the East Side Company? A. They are disputing the assessment now against the commissioners.

Q. They claim that being substantially saving institutions, they are entitled to exemption, do they? A. I brought over the report that you might see, if you want to, as to what they claim.

Q. Did you levy this assessment against this company? A. Yes, sir.

Q. What did you make the basis of your assessments? A. I think I took it from an advertisement in the paper; \$150,000.

Mr. IVINS.—What is the name of that company?

Senator FASSETT.—The East Side Co-operative and Building Loan Association is the name.

The WITNESS.—I don't recall in my mind just where I got it; but they frequently advertise in a paper such an amount on loans; they are not capitalized companies, any of them, but they advertise in the papers so much to put out on loans.

Q. Do you make any distinction in your office between these mutual co-operative building and loan associations, with reference to the statute under which they were organized? A. No, sir; we put them all on the roll just the same.

Q. They are all put on the roll just the same? A. Yes, sir.

Q. If you were convinced that they were substantially institutions of thrift for mutual savings, and not institutions conducted for the purpose merely of making money, would you have any jurisdiction to remit their taxes? A. No, sir; we would have none at all.

Q. That remains with the Legislature? A. That rests with the commissioners so far as I know.

Q. I mean would the commissioners have any jurisdiction to remit that tax? A. I don't know whether they would remit that or not.

Q. Do you know of any law under which they could remit it? A. No; I do not, except what they claim there; that is the only thing that I know of.

Q. Is this the only institution of this kind against which you actually levied an assessment; A. No, sir; there are others; I brought that over.

Q. You have not a list of the others? A. I have not a list of the others; no, sir; the statements of all the others are about of that character.

Q. If I understand you correctly, although it should appear to the commissioners on application that one of these companies owned no real estate, and was simply an association of individuals, each representing a number of shares, on which they paid a monthly installment, the aggregate of which deposits was loaned out to the highest bidder within the limits of the society; in other words that it was simply a mutual savings bank, you would have in your department at present no discretion to remit a taxation against their accumulated savings? A. I think not in the case of those corporations; in mutual life insurance companies that is different; the law is specific as to those.

Q. You don't know how many of those companies are taxed; do you? A. No.

Q. Nor an approximate number? A. I couldn't tell without going over the rolls; there is quite a number of them on; there are a good many more of them appear here than ever did before.

Q. Have you ever made any distinction between these so-called local mutual societies and the so-called national societies? A. Not at all; we place them all on the roll; you see, there has been a large one formed this year with a nominal capital of \$10,000,000; a new one.

Q. About ten per cent of the amount of personalty that actually once gets on your books remains on the receiver's books, does it? A. There is more than that.

Q. How much is it—twelve per cent? A. A good deal more than that; do you mean of that that actually gets on the rolls?

Q. Yes. A. Oh, there is a good deal more than that; I don't know just what the percentage is, but that is very low.

Q. It is about twelve and a half per cent, isn't it—what percentage of \$1,600,000,000 is \$200,000,000? A. You are taking the corporations into account.

Q. I am taking everything into account. A. Oh, yes; on that basis that would be right.

Q. About twelve and a half per cent of all the personalty that you get on your books at all remains on the books? A. Yes; corporations and all that would be near it.

Q. That is, eighty-seven and a half per cent escapes? A. Yes.

Q. Have you any idea how much per cent of personalty never gets on your books at all? A. No; I have not the remotest idea.

Q. Do you suppose you get one-tenth of all of it on your books? A. I don't believe we do; I know two or three instances; one instance of an amount that was paid to a certain person, \$300,000 and odd, for land taken by the city for parks in the upper part of the city; it was paid by the comptroller, and the party was paying upon \$10,000, upon an assessment of \$10,000, and I increased it simply upon the amount of that payment to \$100,000, and he came in the office and swore it down to \$5,000; so we lost \$5,000 on that.

Q. So far as your department is concerned, they are absolutely powerless as against the oath of individuals? A. That is it; we can't go behind it; we have to take it as we find it.

Senator FASSETT.—That is all.

Mr. IVINS.—I want to put in evidence a letter dated April 25, 1889, from the tax department as follows: "Mr. Gunther K. Morgan, Secretary and Executive Officer Civil Service Board, New York city. Sir.—I am instructed by the commissioners of taxes and assessments to request you to certify to them names of persons"—and I call the committee's attention to the use of the plural—"on the list of those eligible to appoint to the position of a deputy tax commissioners. Respectfully, Floyd T. Smith, secretary."

Senator FASSETT.—What is that date?

Mr. IVINS.—That is April twenty-fifth. It appears, therefore, that Mr. Perry had been examined on his own application without competition some time prior to the requisition.

Senator FASSETT.—April nineteenth he was examined.

Mr. IVINS.—April nineteenth—six days prior to the application or requisition by the board of taxes and assessments for a name to fill the vacancy.

MAURICE F. HOLAHAN, being duly sworn, testified as follows:

By Mr. IVINS:

Q. Where do you live? A. One hundred and thirty-three East Fiftieth street.

Q. What is your business? A. Commissioner of accounts.

Q. How long have you been commissioner of accounts? A. Since January, 1889.

Q. By whom were you appointed? A. Mayor Grant.

Q. When were you appointed? A. January, 1889.

Q. What time in January? A. I think about the thirteenth, somewhere along there.



Q. That was during the first fortnight of Mayor Grant's term? A. Yes, sir.

Q. Who is your fellow commissioner? A. Edward P. Barker.

Q. When was he appointed? A. I think the last day of January or the first of February.

Q. Whom did you succeed? A. I succeeded Mr. Daly, James Daly.

Q. Whom did Mr. Barker succeed? A. Mr. Sherman.

Q. Have you a list of the employes in the office at the time when you went into it? A. Not at the time when I went in; I have got the list as they are to day [producing paper].

Q. Edward Owen? A. He was in the office when we came there.

Q. He was in the office? A. Yes, sir.

Q. And is still there? A. Yes, sir.

Q. D. F. Melville? A. He was in the office.

Q. J. B. Cavanagh? A. Mr. Cavanagh in 1889, sometime was suspended for lack of appropriation; he was never appointed until after I came in office; he brought me credentials to show that he had performed his work well while he was there, and also a record that he had passed two very successful civil service examinations for positions.

Q. And you then reappointed him? A. Yes, sir.

Q. Is he a member of Tammany Hall? A. I didn't know it at that time; he is though.

Q. You are a member of Tammany Hall? A. Yes, sir.

Q. John S. Bedell? A. He has been in the office for several years.

Q. R. Nevins? A. He has been in the office for several years.

Q. W. J. Bell? A. He was appointed about a year ago.

By Senator FASSETT:

Q. Let me ask right here, is this a civil service department? A. No.

By Mr. IVINS:

Q. You have the absolute power of appointment and removal? A. Yes.

Q. And the mayor has the absolute power of appointment and removal over you? A. Yes.

Q. Now, W. J. Bell? A. He was appointed about a year ago.

Q. By whom? A. By me.

Q. Is he a Tammany Hall man? A. Yes, sir.

Q. What was his business prior to his appointment. A. He was a lawyer.

Q. Where does he live? A. I think in Avenue D.

Q. F. P. White? A. F. P. White was appointed about six or seven months ago.

Q. Who is he? A. He was known to Mr. Barker as an expert book-keeper in some large wholesale house; that is all I know about him.

Q. Is he a Tammany Hall man? A. I think not; I don't think he is interested in politics at all.

Q. P. H. Hayes? A. Mr. Hayes came to us recommended for work he did with the other Senate investigating committee.

Q. Which other Senate investigating committee? A. The one in which Mr. Best assisted.

Q. Do you mean the aqueduct investigation? A. Yes, sir.

Q. Who recommended him? A. He came with credentials.

Q. From whom — from Mr. Best or from the committee? A. I think he had a letter from Mr. Best.

Q. Mr. Best was not the committee, was he? A. No.

Q. Mr. Best was only one of the employes of the committee, wasn't he? A. Yes, sir.

Q. As a matter of fact, Mr. Best was not the sole accountant for the committee, was he? A. Well, he was one of them, and a very prominent one; that is all I know.

Q. Did you appoint him because Mr. Best recommended him, or because you saw behind Mr. Best's recommendation the recommendation of the committee? A. No, sir; I appointed him because I thought that he was a competent man to do his work; that is all.

Q. Is he a Tammany Hall man? A. I couldn't tell you.

Q. Do you know what his business was before he was appointed? A. He was a bookkeeper.

Q. Where? A. Well, he was employed by several large mercantile firms and at the time satisfied us of that fact.

Q. Do you know why he ceased to be in their employ? A. I do not, sir.

Q. Had he been discharged from them at the time he took this place with you? A. If I am not mistaken my impression is that the firm he was with were going out of business; I think so; there was nothing against the man's character.

Q. C. Schoengood? A. Schoengood is a bookkeeper and is a member of Tammany Hall.

Q. What district? A. The twentieth.

Q. Who appointed him? A. Well, I appointed him; that is, the commissioners of accounts appointed him.

Q. But at whose suggestion or request — yours? A. I think it was mine.

Q. Who requested you to appoint him? A. Mr. Carroll, the leader of the organization in that district; he recommended Mr. Schoengood

as a good man; we told him that we were in quest of men who could do the work assigned them, and we would give him a trial and if he proved to be a good man, we would retain him; if not, he could not remain.

Q. When Mr. Carrol recommended Mr. Schoengood as a good man did he know what work he was good for; that is, did he know what work you were going to put him on? A. He said he was a bookkeeper and Mr. Schoengood also told me he was a bookkeeper himself.

Q. What was Mr. Schoengood's business before he went with you? A. A bookkeeper as I understood him.

Q. Did you find out for whom he had been a bookkeeper? A. I don't think I did.

Q. Didn't you think it was worth while? A. It didn't occur to me just at that time.

Q. Did you make any reference to his former employers, or did you think that Mr. Carrol's reference, as leader of the district, was sufficient? A. I thought that it was good enough to try the experiment with him.

Q. How many experiments of that kind have you tried? A. We try it with all of them.

Q. You try that with all of them? A. Yes, sir; we don't employ any man for more than a day at a time at first.

Q. Did you try an experiment with a man named Theodore Hamilton? A. Yes, sir.

Q. Who asked you to appoint him? A. He was an applicant himself to me.

Q. And you took the responsibility of appointing him? A. Yes, sir.

Q. Now, will you tell us why you appointed Theodore Hamilton? A. Because I thought he was a good man.

Q. Why did you think he was a good man? A. Well, sir, he had been employed in various departments of the city government as long as I knew him.

Q. Did you know what he had done under his employers in the various departments? A. I did not.

Q. Did you know that he had done nothing, except to run of errands for commissioners and to generally make mischief, and make himself busy in other people's affairs during the entire time? A. I didn't know that; if I had he would not have been appointed.

Q. What was he appointed to do? A. The first work that we assigned him to was to make an examination of the marshal's fees; that is, the fees in the marshal's office.

Q. Did you inquire whether he had ever made an examination of

any books theretofore, or had any capacity to examining any books of any kind? A. Only what he told me; he said that he had a perfect knowledge of bookkeeping in the department of public works.

Q. How long have you known him? A. Well, personally, I don't know him at all, except just to speak to him.

Q. Don't you know that he claims to have a perfect knowledge of everything? A. I don't know.

Q. Now, I want to find out why Mr. Theodore Hamilton was appointed to that place, and if you made any inquiries about his character, his habits or his capacity? A. Well, I didn't know anything about his character at all; I knew that he had been employed in the various departments, and I didn't suppose that one administration after another would keep him on the pay-roll and allow him to do nothing; I never knew that he was a messenger between leaders, or the messenger for the head of a department, or anything of the kind.

Q. I have not said he was; how do you know it now; what makes you answer that in that way? A. I thought that was what you stated.

Q. No; I didn't state anything of the kind.

Senator FASSETT.—He asked you if you knew it.

The WITNESS.—That is the inference.

Q. I think it is pretty apparent that you did know; he was in the employ of your political adversaries, wasn't he? A. He was in the department when Mr. Thompson was there.

Q. Didn't you know that he was virtually the personal messenger of Hubert O. Thompson? A. I did not.

Q. Did you ever hear of his having done, at any time, a day's work, or an hour's work, or a minute's work on the books of any department in the city government? A. Well, I did not know whether he did or not.

Q. Who recommended you to take him? A. He came himself to me.

Q. Is he so prepossessing in his appearance that you took him on that? A. I don't consult that.

Q. What do you consult—why did you take Theodore Hamilton? A. Because I thought he was a good man; that is all.

Q. Why did you think he was a good man? A. I knew nothing about his character; he had been employed in a department, as I said before, and I supposed he was a useful man.

Q. Hadn't Theodore Hamilton rendered you and your friends political assistance in the antecedent campaign? A. Not that I know of; he never rendered me any assistance.

Q. Didn't he render assistance to your party during the previous



campaign? A. I saw him around headquarters, but I don't know what he did.

Q. You saw him around headquarters? A. Yes, sir.

By Senator FASSETT:

Q. Did he ask the appointment on that ground? A. He never did anything on my suggestion or for me.

By Mr. IVINS:

Q. Why did you discharge him? A. I discharged him because he had accepted, or at least a man swore that another man had said that Mr. Hamilton received twenty dollars for his influence in securing a market stand in the new market.

Q. That cropped out quite unexpectedly in the market investigation, didn't it? A. The mayor sent for me and told me about it.

Q. How long was that after you came into office and after Mr. Hamilton had been appointed? A. I don't think it was more than two weeks.

Q. Then you found out very suddenly what his character was? A. Yes.

Q. In view of the fact that you could find out so suddenly and so easily, why didn't you make some inquiries in advance? A. I don't know why I didn't; but when I found he was not the kind of a man that we wanted in there, he went out; he was suspended at once.

Q. Why did you think he was the kind you did not want before you found him out? A. Simply because I thought he was familiar with the workings of the departments; that is all; they said he had a collegiate education.

Q. Did he tell you what college he was educated at? A. No.

Q. Who told you he had a collegiate education? A. I couldn't tell you just exactly now; I think he had; I don't know.

Q. What makes you think he had? A. Because I was told so by parties who knew him personally.

Q. Do you remember who told you that? A. I do not.

Q. Did you appoint him because of the allegation that he was a collegian? A. I appointed him because I thought he was a fit assistant; that was all; and if I didn't think so he wouldn't have been appointed with my vote.

By Senator FASSETT:

Q. Did this alleged irregularity of his occur while he was your employe? A. No, sir

Q. But it was discovered while you were his employer? A. Yes, sir; but it was a year before.

Q. It was a year before that? A. Yes, sir.

Q. You regarded him as a kind of professional employe of the department? A. I considered him as an employe; I thought he must have some familiarity, and I set him right to work; he was no messenger for us, no matter what he had done for other heads of office; we put him right at work and held him from 9 to 4.

By Mr. IVINS:

Q. As commissioner of accounts you sometimes look over pay-rolls don't you? A. Yes, sir.

Q. Is Mr. Hamilton now on the rolls of the city? A. Not that I know of.

Q. In any department? A. Not that I know of.

Q. Who is W. H. Heaton? A. Mr. Heaton is a bookkeeper, a young man who came on here from Washington.

Q. How long had he been here? A. He had been off and on for years; he was born in New York city.

Q. When did he come here to make his residence? A. I think just a little while before he was appointed.

Q. When was he appointed? A. About a year ago.

Q. Did he join Tammany Hall before his appointment or after? A. No, sir; he didn't join Tammany Hall until about a month ago.

Q. Only a month ago? A. Yes.

Q. What district organization does he belong to? A. The twentieth.

Q. Who recommended him to you? A. Well, I knew him for years; I knew him when he was a boy; I knew him when he was a child.

Q. E. A. Harvey? A. Mr. Harvey was in the office before I came there.

Q. D. F. McCarthy? A. Mr. McCarthy is the messenger; the messenger who had been there for a number of years was very sick for three months before Mr. Sherman left, and, of course, we had to make a change and took Mr. McCarthy.

Mr. IVINS.—I find by the list handed me by the witness that Edward Owen receives \$175 per month; D. — Melville, \$150; J. B. Cavanagh, \$125; John S. Bedell, \$100; R. Nevins, \$100; W. J. Bell, \$100; F. P. White, \$100; E. H. Hayes, \$100; C. Schoengood, \$100; W. H. Heaton, eighty-three dollars; E. A. Harvey, seventy-five dollars; D. F. McCarthy, seventy-five dollars — making an aggregate of \$1,283 per month.

Q. You received what salary? A. Five thousand dollars.

Q. Five thousand dollars per annum? A. Yes.

Q. And your fellow commissioner receives \$5,000 per annum? A. Yes, sir.

Q. You and he are equal in dignity? A. Yes.

Q. It is not a board and there is no president of it? A. No.

Q. Are there any other persons paid out of the appropriations for your bureau? A. Only when we employ them, when we have an open investigation, stenographers, etc.

Q. Where do you get your supplies — through the *City Record*? A. Yes, sir.

Q. The city pays the rent of your office? A. Yes, sir.

Q. What is the rent of so much of the Stewart building as you occupy — do you know? A. I think it is \$3,500.

Q. That is for the three rooms, isn't it? A. Yes, sir.

Q. Have you a contingent fund? A. No, sir.

Q. What is the total of appropriations for your bureau for the present year? A. Including the salary of the commissioners?

Q. Yes. A. Twenty-seven thousand five hundred dollars.

Q. What appropriation have you asked for the next year? A. Thirty-five thousand dollars.

Q. Why have you asked for \$35,000? A. Because we wanted to employ additional men so as to make an examination of more departments of the city government than we have been able to.

Q. Now, we will begin with this list again; what does Mr. Owen do? A. Mr. Owen keeps an account of the receipts and expenditures in the chamberlain's office from day to day and puts them in his book, and then he makes a quarterly statement.

Q. Do you mean to say that he keeps an account or checks off the entries in the chamberlain's books? A. In the chamberlain's books.

Q. He checks them off? A. Yes.

Q. He does not keep a duplicate set? A. He keeps duplicate books so that he can make from his book a quarterly or an annual statement.

Q. That is to show summaries? A. Yes, sir.

Q. So that, so far as Mr. Owen is concerned, in his examination of the chamberlain's books he checks off the details of entries in the chamberlain's books? A. Yes, sir.

Q. But only makes memorandum of final balances? A. Yes, sir; then he keeps a record of the registered interest payment, and he also attends to some correspondence and acts in the absence of the commissioners in detailing the men to work.

Q. Why does he keep a record of the registered bonds? A. In order to keep a tally of the payments.

Q. Can't he do that without keeping a record of his own? A. He has always done it under Mr. Sherman; I believe it was Mr. Sherman that suggested it.

Q. Are not the books in the comptroller's office ample without his keeping an additional record? A. Possibly so.

Q. How much of his time is taken up in keeping this record of the registered bonds? A. He is busy all the time except when he makes his annual examination of the police department.

Q. When does he make that? A. He makes that; I think he begins about September.

Q. Do you know what sort of an examination he makes of the police department? A. He examines all the vouchers and the pay-rolls of the department.

Q. Do you mean to say that you know he does so, or that he is instructed to do so? A. He is instructed to do so, and he has his reports ready.

Q. What else does he do? A. That is about all he does; he seems to be busy at all times.

Q. Now, has Mr. Owen ever, during your term, detected an error in any of the books that he has examined? A. Well, on two or three occasions the officers in the comptroller's office have come out to look over his books to detect errors, or what they considered errors, in their own books.

Q. That is, they have come to his books for the purpose of checking off their own? A. Yes, sir.

Q. Do you know whether there has ever been any detection of any error in the city's books or the detection of any erroneous payment of any kind as incident to the work done by Mr. Owen? A. No; I hardly think so.

Q. Now, what reason is there for Mr. Owen checking off the chamberlain's books? A. So that he can make an independent statement.

Q. All the chamberlain's books correspond in general to the comptroller's books, don't they? A. Yes, sir.

Q. They are virtually a duplicate set of books? A. Yes.

Q. So far as both trust accounts are concerned and appropriation accounts? A. Yes, sir.

Senator FASSETT.—Do you mean by virtually, formally, identically or substantially identical?

Mr. IVINS.—They are substantially identical. They differ mainly in this, that the comptroller's books show the warrants drawn and the chamberlain's books show the warrants paid; but when the accounts



for the year are closed up then the results, as shown on the face of warrants, are identical in the two sets of books.

Senator FASSETT.—There is always a shifting difference on account of the warrants that may be outstanding and not presented.

Mr. IVINS.—Yes.

By Senator FASSETT:

Q. Is that right? A. Yes, sir.

By Mr. IVINS:

Q. What reason is there for employing a man to do that work, assuming for the present that the law didn't require it, in view of the fact that the comptroller's books and the chamberlain's books are to all intents and purposes identical, so far as concerns payments, out of the city treasury? A. Well, the commissioners of accounts' idea is that they should make a statement of their own, and if there is any difference to investigate it.

Q. Do you certify to the statement made by Mr. Owen? A. Yes, sir.

Q. Do you make any examination of the manner in which he has done his work? A. Yes, sir.

Q. What is your examination? A. Well, we make a cursory examination of it; we principally look to find out whether the amounts in the various depositories are correct or not, and sometimes go over some of the additions in different parts of it.

Q. What was your business before you became commissioner of accounts? A. I was special agent of the treasury.

Q. Did that familiarize you with accounts? A. To some extent; yes.

Q. Does the special agent of the treasury have to examine accounts from the point of view of the bookkeeper or accountant? A. We have to examine the accounts of the custom houses to find out whether the collector has returned to the United States Treasury the money he has collected as duties.

Q. Nothing more to you? A. That is all, sir.

Q. Consequently a man could be special agent for the treasury without having any expert knowledge as an accountant whatever, couldn't he? A. Yes, sir; but I was also, in Washington, chief of customs, where we had all the accounts of the various collectors to examine.

Q. How long was that? A. That was from July, 1885, until December, 1886.

Q. Prior to that, what office did you hold? A. Prior to that I was, I think, clerk of the Senate.

Q. Prior to that you were in the Assembly, weren't you? A. I was in the Assembly, and prior to that I was five years business manager of a paper, and for two years was in the counting office.

By Senator FASSETT:

Q. Were you clerk of the Senate of 1882 and 1883? A. Yes, sir; I was the assistant clerk.

By Mr. IVINS:

Q. Now, will you tell us, as a man who has had some experience of accounts, what you mean by a cursory examination of an account? A. I don't mean to examine it into details.

Q. How can you examine an account so that your examination is reliable, unless you do it in detail? A. We can make certain tests of it.

Q. Tell us how you have made tests of those accounts; has it been by taking them and going to the chamberlain's books, and personally checking them off? A. No, sir; I have not done that.

Q. He does not keep a set of double entry books, does he? A. No.

Q. Then if he does not keep a set of double entry books, how can you make a test of the accuracy of his accounts, unless you go back to the original accounts? A. Well, we make as careful an examination as we can, without going all over the details, such as he does.

Q. Your examination is careful enough to be cursory — is that what we are to understand? A. Yes.

Q. Do you, yourself, think that your cursory examination of his accounts, amounts to anything — now, tell us frankly, does it? A. Yes; I think so.

Q. What does it amount to? A. It amounts to this, if I detected an error in any examination that I make, I wouldn't trust him.

Q. Now, will you tell us how you could detect an error in view of the character of the examination as you have described it? How would you know if an error had been committed in the work that is done by Mr. Owen? A. I think my brother commissioner could also detect it.

Q. I am talking about you; we will take the brother later; now how could you detect an error in Mr. Owen's work, how would you go about detecting it? A. Of course, I couldn't detect a natural error, except I went to the books just as you said in the chamberlain's office.

Q. Have you ever done that? A. No.

Q. Then you couldn't detect an error because you have never done the thing necessary to its detection?

By Senator FASSETT:

Q. Merely looking at the totals of accounts wouldn't reveal errors in detail? A. Why no; the head bookkeeper is supposed to look after that; he always does.

By Mr. IVINS:

Q. Then your examination of Mr. Owen's accounts is not only cursory but entirely perfunctory, is that right? A. To a certain extent.

Q. Isn't it so entirely? A. I don't know but it is.

Q. You don't know but it is? A. No.

Q. Now, what does Mr. Melville do? A. Mr. Melville goes into the various departments and examines the transactions of the departments.

Q. When does he go into the departments? A. From time to time; he is in the street cleaning department at present.

Q. Who sends him? A. The commissioners.

Q. He is now in the street cleaning department? A. Yes, sir.

Q. What other department has Mr. Melville been in? A. He has been in the park department; he has been in the dock department; he has been in the police department and he has assisted in other departments.

Q. How does his work in the police department differ from Mr. Owen's work there? A. I think he was assisting Mr. Owen; that is my impression; I know he went over the unclaimed property; that is the property in the custody of the property clerk.

Q. He did that? A. Yes, sir.

Q. What else did he do? A. I don't know what else he did in it; I don't know as he did anything else in the police department.

Q. Is that reclaimed property a matter of vast magnitude and serious importance in the administration of the city government? A. It is well to know if the property clerk is administering the affairs of that office properly or not.

Senator FASSETT.—That is the reclaimed property of the police department?

Mr. IVINS.—Yes, sir.

The WITNESS.—Property seized by the police and unclaimed.

Q. Do you know what books are kept showing what property is claimed and what is unclaimed? A. I don't understand you.

Q. Do you know how the books of the police department, being the books of the property clerk of the police department, showing what property has been seized and what is claimed, reclaimed, or unreclaimed, are kept? A. Why, they are just kept in a very simple manner, the date of receipt and the disposition of each article.

By Senator FASSETT:

Q. And a description of the article? A. Yes, sir.

By Mr. IVINS:

Q. Is it possible to find out, without going through those books, whether or not the books are accurately kept? A. There is an entry here of the goods when they come in.

Q. Did Mr. Melville check off the goods in the custody of the clerk? A. I think he did.

Q. How long do you suppose that would take to do that, once, twice or three times a year; how long would it take on each occasion? A. Not over a couple of weeks; may be two or three weeks.

Q. Would it take three weeks to make one examination of the property in the hands of the property clerk for the purpose of checking off the accuracy of the entries in his books? A. It all depends upon the amount of merchandise on hand.

By Senator FASSETT:

Q. Does he do this work alone? A. He did do it alone the last time.

By Mr. IVINS:

Q. Have you any idea how much of that property there is on hand? A. No, sir; we have a record of it in the office.

Q. Did I understand you to say that you had once been in mercantile business? A. No, sir.

Q. So you have never had any experience in taking an account of stock in a mercantile business? A. No, sir.

Q. Have you any idea how much account of stock one man can take in three weeks by working diligently? A. No, sir.

Q. Do you know whether Mr. Melville devoted three weeks to going through that work, or not? A. Either two or three weeks; I don't know which; he is a very faithful worker.

Q. You say he was in the dock department? A. Yes, sir.

Q. And in the police department? A. Yes, sir.

Q. And now in the department of street cleaning? A. He was in the park department for several months.

Q. How long was he in the park department? A. I should judge four or five months.

Q. Who sent him there? A. The commissioners.

Q. Why was he sent there? A. For the purpose of making an examination of the records of the department, and also to find out



whether the material that was purchased there was all properly accounted for.

Q. When did he go there? A. I could not tell the exact date.

Q. Was it last spring? A. I think it was.

Q. Did he make a report? A. Yes, sir.

Q. Have you got his report? A. Well, he and the other assistants who were with him, they made a report to the commissioners of accounts and the commissioners of accounts presented the report to the mayor.

Q. Did that report as presented to the mayor include his report in the premises, or only embody the substance of it? A. Well, it embodied a part of his report.

Q. His report, then, was treated by you simply as material to serve in drawing your report? A. Yes, sir; well—

Q. [Interposing.] What has become of his report? A. Well, I want to say this, that Commissioner Barker, who had charge of that matter—he worked with Mr. Melville there, and together they wrote the report—and he made the final report.

Q. How long was Mr. Melville in the dock department? A. I should think about three months.

Q. You preferred charges against the dock commissioners, didn't you? A. Yes, sir.

Q. How long had you been prosecuting the inquiry into the affairs of the dock department before you preferred those charges? A. You mean the open investigation?

Q. I mean your investigation before the open investigation before the commissioners of accounts began? A. Well, the examination was going on about three months before we had the public or open investigation; we began the open investigation October seventh, and then we deferred it until after election.

Q. Who asked you to defer it until after election? A. Well, it was our judgment that it should be deferred because we suspected that somebody might attribute political motives to us.

Senator FASSETT. — Yes; that would be too bad.

Q. Did you suspend the investigation of all departments until after election? A. No, sir.

Q. Why, if that is right in one single case, isn't it right for you to suspend all other operations that you have on hand until after elections are over? A. Well, this was a public investigation.

Q. Why, was there any member of that board running for office at that election? A. No, sir.

Q. Was there any employe of the dock department running for office? A. Not that I know of.

Q. They had a good deal of influence, however, haven't they? A. I don't know that.

Q. You never heard that the dock department had much influence? A. No, sir; but I should imagine that they had influence, but it never occurred to me in the postponement of the investigation.

Q. When did you take that up again—right after election? A. Yes, sir.

Q. How soon after? A. I think the latter part of November, we took it up again.

Q. Do you know whom the main body of the employes in the dock department supported in that election? A. I do not.

Q. Do you know whom the commissioners of the dock department supported in that election? A. I imagine they were divided.

Q. Mr. Post is an antagonist of Tammany Hall, isn't he? A. Yes, sir.

Q. And Mr. Matthews is an antagonist of Tammany Hall? A. Yes, sir.

Q. Was Mr. Cram then a commissioner? A. Yes, sir.

Q. Mr. Cram was a friend of Tammany Hall? A. Yes, sir.

Q. So Tammany Hall had one friend in the board and two antagonists? A. Yes, sir.

Q. How long after election did your open investigation continue? A. I think it continued until in December sometime.

Q. Then you preferred charges to the mayor? A. Yes, sir.

Q. Didn't you prefer charges to the mayor before you had completed your investigation in the department? A. No, sir; with the presentation of our charges the investigation stopped.

Q. Had you made a complete, thorough and exhaustive examination of the department before you preferred those charges? A. Well, the partial examination that we made, in conjunction with the testimony taken before our commission, made us believe that charges should be preferred against the department.

Q. Without any further examination? A. Yes, sir.

Q. So that you stopped right there and preferred the charges? A. Yes, sir; upon the admission of the commissioners themselves.

Q. Then the mayor took testimony and dismissed the charges, didn't he? A. Yes, sir.

Q. How long were those charges pending before the mayor? A. I think five or six weeks; all the counsel seemed to have the grippe, one after the other, and that delayed it.

Q. Were not those charges pending before the mayor for several months? A. No; I think several weeks.

Q. Were not those charges still pending before the mayor when this committee began its session in this city? A. I don't remember.

By Senator FASSETT:

Q. You don't recollect? A. I do not.

By Mr. IVINS:

Q. How long was Mr. Melville employed in your preliminary investigation of that department? A. I think about three or four months.

By Senator FASSETT:

Q. What called your attention to the department of docks? A. Mr. Cram came to the office and stated that he wishes the commissioners of accounts would begin an investigation of the dock department.

Q. Why? A. Well, he said that he did not believe everything was all right.

By Mr. IVINS:

Q. Did he state why? A. He said he would like to have the department examined thoroughly, because he was a new commissioner, and he didn't want to be tarnished with any wrongdoing that was going on there.

By Senator FASSETT:

Q. How long had he been a commissioner at this time; do you recollect? A. I think about six months—well, when he made the request he had only been in there a few weeks.

By Mr. IVINS:

Q. Did he give you any indications as to what was going to tarnish him? A. He said he had made several suggestions to the board that certain men should be dismissed, particularly dockmasters, that he didn't think they were rendering a proper account to the city; and also in the purchase of materials, etc., that he didn't think things were carried on properly.

Q. Did you find that the dockmasters were not rendering proper accounts? A. Yes, sir.

By Senator FASSETT:

Q. Did Mr. Cram make a written accusation? A. No, sir.

By Mr. IVINS:

Q. Did you find there was any fraud in the purchase of materials? A. Well, we found they were paying higher prices than the market prices, and that they were purchasing in the open market.

Q. The mayor appointed Mr. Cram — Mayor Grant? A. Yes, sir.

Q. And the mayor dismissed these complaints? A. Yes, sir.

By Senator FASSETT :

Q. Did Mr. Melville make a written report to you of what he discovered in his private investigation of the department? A. Well, he had a mass of figures there; there was no written report, but he came before the commissioners of account and went on explaining what he had found in the various bureaus of the department.

Q. Have you the record of his explanation? A. No, sir; excepting that we have his figures.

Q. Was there no stenographer present when he made these explanations? A. No, sir.

Q. When you had your public investigation, was that done by calling witnesses and examining them under oath? A. Yes, sir.

Q. Have you any record of that examination? A. Yes sir.

Q. That is obtainable is it? A. Yes, sir; I believe Mr. Ivins has all the testimony taken there.

Q. Did you make written charges to the mayor? A. Yes, sir.

Q. Did you ever amend the original charges? A. Yes, sir.

Q. Have you records of the original and amended charges? A. Yes, sir; they are in existence.

By Mr. IVINS:

Q. Are they in the record that I have? A. I think so; Mr. Barker can tell you.

By Senator FASSETT:

Q. There is no difficulty in our both obtaining those, is there? A. No; sir.

By Mr. IVINS:

Q. When did Mr. Melville go into the street cleaning department? A. I think about two months ago.

Q. Who sent him there? A. The commissioner of accounts.

Q. Why did you send him there? A. We wanted to find out whether the department had been properly conducted.

Q. Why didn't you send somebody there before? A. Because we didn't get around to that department.

Q. Have you ever approached the street cleaning department prior to two month ago? A. Not prior to the time that we sent in Mr. Melville.

Q. Then the street cleaning department has been running along for sixteen months without any investigation on your part? A. Yes sir.



Q. What other departments have been going on for sixteen months without any investigation on your part? A. There are some departments that we have not touched at all yet.

Q. What are they; have you gone into the fire department? A. No; sir.

Q. Do you know whether any investigation has ever been made, at any time, by any one, of the operations of the fire department?

A. I think not by any commissioner of accounts.

Q. Or by any investigating committee? A. No; sir.

Q. The fire department has from its creation to this day escaped investigation? A. I think so; there is no record of any investigation in our office.

By Senator FASSETT:

Q. Have any complaints ever been made before you of any irregularities in the fire department, at any time, of any kind? A. No, sir.

Q. Either in administration, or in the purchase of supplies? A. No, sir.

By Mr. IVINS:

Q. The police department has been investigated repeatedly? A. Yes, sir.

Q. And the street cleaning department has been investigated a number of times? A. I don't remember any investigation; we have no record in our office that the commissioners of accounts made an examination of that department.

Q. And the dock department has been investigated a number of times? A. Yes, sir.

Q. And the records of the commissioners of accounts shows that the commissioners of accounts have investigated it a number of times?

A. Twice, I think.

Q. Twice prior to your time? A. Yes, sir.

Senator FASSETT.—The markets—is that a separate bureau?

Mr. IVINS.—That is a part of the finance department.

Q. Why is it, knowing that the fire department has never been investigated, that you have never instituted an investigation of that department? A. We would have gone into the fire department if we had not taken up the dock department and the park department.

Q. Has the dock department and the park department virtually consumed all of your time for the last twenty months? A. No, sir; we have made an examination of the collection of moneys by the department of public works, and we made our report yesterday, or the day before, to the mayor.

Q. Have you made further or fuller examination of the department of public works than that? A. No, sir.

Q. Have you ever examined the contracts for supplies to the department of public works? A. No, sir.

Q. Have you ever audited the vouchers for the purchase of supplies for the department of public works? A. No, sir; I don't think we have.

Q. Have you ever checked back and reaudited the work of the auditors? A. Yes, sir.

Senator FASSETT.—In the department of public works?

Mr. IVINS.—In the department of finance now.

The WITNESS.—Of course, you understand that all vouchers for the payment of money pass through our office, and every voucher is examined by Mr. Bedell and Mr. Melville in our office.

Q. Have you and your fellow commissioners, so far as you know, ever examined any of the contracts for supplies to any of the departments of the city? A. No, sir.

Q. Why haven't you? A. Except in the park department and in the dock department.

Q. Why did you go into the park department? A. Because it had not been examined for a number of years; that was one of the departments that the commissioners could have gone into.

Q. Do you remember the time there was a good deal of talk about the supply of Raw Hook gravel for the park department? A. That was before my time.

Q. When there was an investigation of the park department? A. That was Mr. Shearman; I think a year before I came in, in regard to that Fifth avenue pavement.

Q. In regard to repaving? A. Yes, sir.

Q. Commissioner Barker had been an employe of the park department, hadn't he? A. I understood so.

Q. And he had either resigned or been removed, I don't know which? A. I don't know, either.

Q. Have you ever made any investigation of the department of charities and corrections? A. Only in regard to the crib bulkhead; we got two or three communications in regard to it.

Q. That was made at a time when Mr. Brennan, then the commissioner, was an applicant for reappointment? A. I believe so; and possibly the people who were interested in not having him reappointed sent us letters to investigate it.

Q. And you made an investigation of the crib bulkhead work at the instigation of persons who were interested in not having Mr.

Brennan reappointed? A. Well, I don't know whether they were interested in not having Mr. Brennan appointed, or whether they were interested in behalf of the city.

Q. At any rate, he did not get reappointed? A. No, sir.

Q. And the results of your investigation was used to prevent his reappointment? A. I can not say that.

Q. Weren't they referred to by the appointing power? A. I don't know; I don't think the appointing power ever made any reference to that.

Q. Either publicly or privately? A. I never saw anything in print about it.

Q. After he was not reappointed, you stopped? A. No, sir.

Q. You did not prosecute that any further? A. No, sir; because we had exhausted it.

Q. Did you go into other details? A. No, sir.

By Senator FASSETT:

Q. Was there anything in your investigation of that part of the work of the department of charities and corrections which led you to think that a further investigation would prove desirable? A. We felt, and do feel now, that there ought to be a thorough investigation of that department and other departments.

Q. Why? A. I think all departments ought to be investigated.

Q. Simply on general principles? A. Yes, sir; I think so.

Q. Who makes that investigation, your subordinates or you, in the first instance? A. They start the investigation; they report to us every day, or every morning, what the progress of the investigation is, and sometimes Mr. Barker or me will go into the department.

Q. It is really necessary, isn't it, that your subordinates should be men of as much ability as you are in order to prosecute these investigations properly, in the first instance? A. Yes, sir.

By Mr. IVINS:

Q. Are they? A. Yes, sir; I think so.

Q. Do you think the subordinates who do this work are fully as competent as expert bookkeepers as you are? A. Some of them are.

Q. Why, have you any who are not? A. I don't think you can get an expert accountant for eighty-three dollars a month, or seventy-five dollars a month or even \$100 a month.

Q. Don't you think you can get a fairly expert accountant for \$100 a month? A. No, sir.

Q. Don't you know that \$1,200 a year is quite an average salary for first-class double entry bookkeepers in this city keeping a small and an average set of books? A. No, sir.

Q. Have you ever tried to get an accountant? A. Yes, sir.

Q. Have you ever tried, other than to recollect some of your personal friends, like the gentleman from Washington, or go to a leader like Mr. Tarrall? A. Yes, sir; we are always on the lookout for them.

By Senator FASSETT:

Q. Did you ever advertise, "Expert accountant wanted—commissioners of accounts?" A. No, sir; I think we would have had 4,000,000 applicants if we had advertised.

By Mr. IVINS:

Q. As a matter of fact, haven't you always made vacancies in order to fill them? A. No, sir; I don't know the politics of but three men on that list; there has never been a question of politics in our office; I don't know how the men vote; the three men who belong to Tammany Hall, I judge they vote the Democratic ticket and the Tammany Hall ticket, but there has never been any question of politics in our dealings with the men.

Q. Do you know what kind of an investigation Mr. Melville is at present prosecuting in the department of street cleaning? A. Principally in the record of the supplies.

Q. What instructions did he have? A. To find out the amount of the contracts for the amount of supplies, the cost, etc.; and also to get up a record of the contracts.

Q. Has he been instructed to try and discover the volume of work done as compared with the volume of expenditure? A. Yes, sir; that enters into it.

Q. How would you go about that if you were doing the work yourself instead of having Mr. Melville do it? A. I would find out from their books how much work had been accomplished from day to day and the cost, and get at it per yard.

Q. Do you know whether their books show how much work has been accomplished from day to day? A. I think they do.

Q. Why? A. Because they make reports from week to week and from month to month.

Q. Have you ever seen their books? A. No, sir.

Q. Have you ever seen the books of the health department? A. No, sir.

Q. Or of the department of charities and correction? A. Yes, sir.

Q. Have you ever seen any of the books of the department of charities and correction except those that bore on the crib bulkhead work? A. No, sir.



Q. Have you ever seen the books of the fire department? A. No, sir.

Q. Have you ever personally seen the books of the police department? A. No, sir; excepting the books that Mr. Owen had down there; he brought some books down with him.

Q. Have you ever seen the books of the dock department? A. Yes, sir.

Q. As incident to that particular investigation? A. Yes, sir; the books were in our office, some of them.

Q. Have you ever seen the books of the civil justices? A. No, sir.

Q. Have you ever seen the books of the police justices? A. No, sir.

Q. Have you ever seen the books of the mayor's office? A. Commissioner Barker has.

Q. You — I want to know what you know; then we will take him next? A. I haven't personally — ; no, sir.

Q. Have you ever examined the books of the tax department? A. No, sir.

Q. Have you ever seen the books of the tax department? A. Yes sir.

Q. What books of the tax department have you seen? A. I can not specify in particular what books I have seen; we never have begun an investigation of the tax department at all.

Q. Do you know what the system and method of bookkeeping of the mayor's bureaus are? A. Simply single entry.

Q. How do you know? A. That is what my assistants tell me.

Q. When I say "system and method," I am making no reference whatever to whether it is single or double entry; do you understand the theory of the accounts of that office? A. Yes, sir; in regard to theatrical license fees you mean.

Q. In regard to all license fees, every class together, and in regard to the expenditures of the mayor's office? A. Yes, sir.

Q. Do you know that the Consolidation Act says that the appropriation for the mayor's office shall be \$20,000 per year and no more for all purposes? A. I think it is \$26,000.

Q. The appropriations are \$26,000, are they not? A. Yes, sir.

Q. Don't you know that the Consolidation Act says they shall be \$20,000 and no more? A. I didn't notice that — no, sir.

Q. Don't you think that as a commissioner of accounts it would have been a proper thing for you to compare the appropriation with the provision of law regarding the appropriation? A. Yes, sir.

Q. But you have never done it? A. No, sir.

Q. Then you don't know why or how that additional \$6,000 happens to be in the mayor's office? A. No, sir.

Senator FASSETT.—Section 105, of the Consolidation Act, says: "The aggregate expenses incurred by him (the mayor) for such expenses shall not exceed in any one year the sum of \$20,000."

Q. How do you account for the fact of that additional \$6,000 in there? A. I can not account for it.

Q. How long has it been there, do you know? A. No, sir.

Q. Do you know whether it came about from the consolidation of bureaus, or whether it was just chucked in? A. I judge it came from the consolidation of bureaus.

Q. What makes you judge that; do you know whether any bureaus ever have been consolidated there? A. The bureau of licenses and the bureau of which Mr. Martin was at the head were consolidated — the bureau of permits and the bureau of licenses.

Q. Do you know that the bureau of permits was regarded for years as an independent bureau and not included in the appropriation for the executive department for the purpose of escaping this very provision of law? A. No, sir; I do not.

Q. Do you know anything about the system and theory of keeping the books in the tax department? A. No, sir.

Q. Do you know anything about the system and theory of keeping the books in the charities department? A. I don't quite understand what you mean.

Q. You say you have never seen the books of the department of charities and correction? A. No, sir.

Q. Then you certainly do not understand them, do you? A. No, sir.

Q. You have never seen the books of the fire department? A. No, sir.

Q. You don't understand them, do you? A. No, sir.

Q. Do you understand the books of the police department? A. I haven't examined them — no, sir.

Q. Have you ever personally examined the books of the chamberlain's office? A. No, sir.

Q. Do you understand them? A. Well, I suppose I would if I had made the examination personally, myself.

Q. Do you understand the operations of the sinking fund of this city? A. To some extent — yes, sir.

Q. Do you understand the books of the dock department? A. Well I could understand the books to the extent that I could find out.

whether the moneys received by the employes of the department were paid into the city treasury.

Q. Do you understand the books of the general bookkeeper of the city? A. No, sir.

Q. Have you ever examined the books of the general bookkeeper of the city? A. No, sir.

Q. Have you ever suggested to the general bookkeeper of the city any change in the method of keeping the accounts? A. No, sir.

Q. Has the general bookkeeper of the city ever talked with you about any change in the method of keeping the accounts? A. No, sir.

Q. Do you know the difference between appropriation account and trust accounts? A. Yes, sir.

Q. What is it? A. Appropriation accounts are the moneys that are appropriated by the board of estimate and apportionment; the trust accounts are the moneys that are not appropriated.

Mr. IVINS. — If the committee please, I have a very important engagement at 4 o'clock, and, as that hour has now arrived, I would suggest an adjournment until to-morrow.

Senator FASSETT. — The committee will adjourn until to-morrow morning at 11 o'clock.

Adjourned until to-morrow, October 23, 1890, at 11 A. M.

Mr. IVINS. — Here is an exhibit that was omitted from the testimony the other day and I would like to introduce it in to-day's session :

Application No . . . . .

Examination No. . . . .

Date of examination April 19, 1889.

## SCHEDULE F.

No. 1. Form A. }  
February, 1889. }

APPLICATION PAPER FOR THE NEW YORK CITY CIVIL SERVICE.

NEW YORK CITY CIVIL SERVICE BOARDS. }  
COOPER UNION. }

1. This is the proper application form for every position except that of patrolman, park policeman, and fireman in the fire department.

2. Every blank in the paragraphs numbered from one to twenty inclusive must be properly filled, and every principal question included therein must be clearly answered, in the handwriting of the

applicant; and, if the answers to such questions call for it, every subordinate question in the paragraphs lettered a, b, c, etc., must in like manner be answered, or this application will be returned for correction.

3. Applications which disclose a lack of the qualifications as to age, health, citizenship, etc., required by the rules will be rejected.

4. This application must be signed, sworn to, and sent to the secretary of the New York city civil service boards.

5. Regulation 39 says: "Every false statement knowingly made by any person in his application for examination, and every connivance by him at any false statement made in any certificate which may accompany his application, shall be regarded as good cause for the removal or discharge of such person.

6. Applicants will be notified of the time and place of examination. They must give notice of any change of post-office address, or unwillingness or inability to attend the examination.

#### *Application.*

I make and swear to this application with the purpose of taking the first examination open to me, and of entering without delay upon the duties of any place in the city civil service for which I am an applicant, and I promise to promptly inform the secretary of the civil service boards of any change in such purpose.

Each question must be answered or the blank will be returned.

1. What is your full name? (If female, state whether Mrs. or Miss.)  
Ans., Henry A. Terry.

2. What is your actual (legal) residence and post-office address at this time? (Give in full, State and town or city, including street and number.) Ans., it is Worth House, 7 West Twenty-sixth street, in (in the town or city of) New York city (State of) New York.

3. How long have you been a resident of the last-named town or city? Ans. I have been a resident therein during the period of thirty-eight years.

4. Where, to the best of your information and belief, were you born? (Give State or nation, as well as the city or town.) Ans. I was born at New York city, in New York State, on the 3d day of May, 1850, and I am therefore thirty-eight years of age.

5. Are you a citizen of the United States? Ans. (Yes or no.) Yes.  
a. If not by birth a citizen, have you been naturalized, and when. Ans.

6. Where was your education chiefly received? Ans. It was chiefly received (state at what place, and in what school, business college, academy, or college, and length of course), at the public schools (W. S. 14,) in the city of New York, (length of course, nine years).



7. What has been your business or occupation, and particularly, what training and experience have you had to fit you for the position you now seek? (State in detail.) I was for about nine years employed in the department of taxes and assessments in this city, between three and four years as clerk, and then advanced to the position of deputy tax commissioner, which I held nearly five years.

8. What position in the city civil service do you seek? (Only one position can be applied for on this blank.) Ans. I seek the position of deputy tax commissioner.

9. Were you in the military or naval service of the United States during the late war? Ans. (Yes or no.) No.

a. If yes, in what regiment or on what vessel, and between what dates?

b. Were you honorably discharged?

c. If so discharged, attach a proof of it, either from the Adjutant-General of the United States Army or the Secretary of the Navy, or from the Memorial Committee, Grand Army of the Republic, room of basement of city hall.

10. Were you ever in the service of the city of New York? Ans. (Yes or no.) Yes.

a. If yes, state in what position, between what dates, in what department, whether you have been dismissed from it, have failed to secure a permanent appointment after probation, or have left it, and if so the date, and, specifically, the cause of such dismissal, failure or leaving, as clerk and deputy commissioner from 1875 to 1882, in the department of taxes and assessments; cause of leaving, reduction in the number of employes to reduce expenses in department.

11. Were you ever examined for a position in the service of the city of New York? Ans. (Yes or no.) No.

a. If yes, state for what position.

12. By whom have you been employed, and at what place or places and dates, during the last three years? (If you have been employed by others, please state that fact.)

Ans. By . . . . ., at . . . . ., from . . . . ., 18.. to 18..

Ans. By . . . . ., at . . . . ., from . . . . ., 18.. to 18..

Ans. By . . . . ., at . . . . ., from . . . . ., 18.. to 18..

Ans. By . . . . ., at . . . . ., from . . . . ., 18.. to 18..

13. Has any one of said persons, firms or corporations, or any public officer, discharged or removed you during said three years? Ans. (Yes or no).

a. If you say yes, state, if you please, by whom, and the date and specifically the cause of such discharge or removal. I have had no

position during the past three years, but have been employed as real estate expert.

14. Have you ever been arrested? Ans. (Yes or no.) No.

a. If yes, state or not, at your option, for what offense, and any explanation you desire to make.

15. Have you ever been convicted of any crime, or imprisoned under sentence for any crime? Ans. (Yes or no.) No.

a. If yes, state or not, at your option, what crime, and any explanation you desire to make.

16. Do you use intoxicating beverages; and, if so, to what extent? Ans. With extreme moderation.

17. Are you of good health? Ans. Yes.

18. Are you aware of anything that disqualifies you for a full discharge of your official duty in the service which you seek to enter? Ans. No.

19. Have you any defect of sight, hearing, speech or limb? (If any, state the defect and its extent.) Ans. No.

20. Are you ready to stand a physical examination by a surgeon of your own sex, if required? Ans. Yes.

#### *Vouchers and their certificates.*

*Directions.*—1. Four persons, and no more, must vouch for the character of the applicant. They must be residents of this city, unless the applicant resides elsewhere; when two of the vouchers, at least, must be residents of New York city. All the vouchers should be well acquainted with the applicants. They must have known the applicant at least one year; and it is desirable that one of them should be a reputable physician.

2. They should be persons of good character and standing in the community where they reside, and must not be engaged in the liquor trade in any form.

3. The Civil Service Act contains this language: "Sec. 9. No recommendation of any person who shall apply for office or place under the provisions of this act, which may be given by any Senator or Member of Assembly, or officer confirmed by the Senate or judge of any court, except as to the character or residence of the applicant, shall be received or considered by any person concerned in making any examination or appointment under this act."

4. Each subsequent blank must be filled as accurately as practical.

N. B.—The applicant is cautioned that, inasmuch as the vouchers on this paper will be called upon for such detailed (written) information as to ability, industry, character, habits, etc., as

they can give, he should be careful to secure those who know him well, especially in his occupation, and who will be willing to furnish such information in greater detail when asked, as a failure to so furnish it promptly will be deemed a refusal, and will be necessarily a disadvantage to the applicant.

Certificate of voucher No. 1.—I state upon my honor as follows:

(1) That I am more than 21 years of age; (2) that I am now a resident of New York city, in the State of New York; (3) that I am not an immediate relative of the applicant; (4) that I have read the whole of the foregoing application, and believe each of the statements made therein to be true; (5) that I have personally known said applicant well since 1880; (6) that said applicant has not, to my knowledge or belief, any physical or mental weakness or infirmity, unless that mentioned in this application, which is a disqualification for the service sought; (7) that said applicant is to my personal knowledge a person of good moral character and capacity, of good repute, of temperate and industrious habits, and is in all respects fit for the service the applicant seeks; (8) I would not refuse to employ the applicant in private business for any lack of either of the qualifications aforesaid, and I will on request give further information concerning the applicant, and am willing this certificate should be made public when necessary.

(Signature) E. S. Stokes. (Occupation) Hotel keeper.

(Post-office address, street and number) Hoffman House.

Certificate of voucher No. 2.—I state upon my honor as follows:

(1) That I am more than 21 years of age; (2) that I am now a resident of (the city or town) New York, in the State of New York; (3) that I am not an immediate relative of the applicant; (4) that I have read the whole of the foregoing application, and believe each of the statements made therein to be true; (5) that I have personally known said applicant well since 1883; (6) I adopt and wish to be considered as repeating for myself the statements numbered 6, 7 and 8 of the foregoing certificate of voucher No. 1.

(Signature) R. W. Taylor. (Occupation) Physician.

(Post-office address, street and number) 40 West Twenty-first street, New York city.

Certificate of voucher No. 3.—I state upon my honor as follows:

(1) That I am more than 21 years of age; (2) that I am now a resident of (the city or town) New York city, in the State of New York; (3) that I am not an immediate relative of the applicant; (4) that I have read the whole of the foregoing application, and believe each of the statements made therein to be true; (5) that I have personally

known said applicant well since 1873; (6) I adopt and wish to be considered as repeating for myself the statements numbered 6, 7 and 8 of the foregoing certificate of voucher No. 1.

(Signature) John Hardý. (Occupation) Lawyer.

(Post-office address, street and number) No. 265 Broadway, New York city.

Certificate of Voucher No. 4. — I state upon my honor as follows:

(1) That I am more than 21 years of age; (2) that I am now a residence of (the city or town) New York city, in the State of New York; (3) that I am not an immediate relative of the applicant; (4) that I have read the whole of the foregoing application, and believe each of the statements made therein to be true; (5) that I have personally known said applicant well since 1881; (6) I adopt and wish to be considered as repeating for myself the statements numbered 6, 7 and 8 of the foregoing certificate of voucher No. 1.

(Signature) W. Bourke Cockran. (Occupation) lawyer.

(Post office address, street and number) 38 Park Row, New York city.

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This oath must be taken before a justice, notary or other officer competent to administer it.

STATE OF NEW YORK, }  
COUNTY OF NEW YORK. } ss.:

And on this day said applicant, to me personally known, having been duly sworn (or affirmed) before me, stated that said applicant had read the printed as well as the written parts of the foregoing application, and to the best of applicant's knowledge, information and belief the several statements therein contained are true; and further declared to me that said applicant had good reason to belief, and does believe and represents, (1) that the occupation, residence, address and other statements of each of the vouchers, as given in the foregoing certificates, are severally correct; (2) that each of said vouchers is a person of good character and reputation; (3) that the several signatures hereto, purporting to be those of said vouchers and of the applicant, are genuine; and (4) that deponent, who has signed this application, is the person intended to be examined by virtue thereof.

(Signature of applicant as usually signed) H. A. Perry.

Sworn to and subscribed before me by said applicant this 16th day of April, 1889.

(Signature of officer) T. Francis Gibbons,

(Official title) Com' of Deeds, N. Y. Co.

(If you have an official seal affix it.)



Form No. 1.

NEW YORK CIVIL SERVICE BOARD,  
 SECRETARY'S OFFICE, ROOM 30, COOPER UNION, }  
 NEW YORK, April 14, 1889. }

To HENRY A. PERRY, 7 West Thirty-fifth Street, City:

SIR.—A complete examination of applicants for position of deputy tax commissioner will be held at this office on Thursday, the 19th day of April, 1889, beginning at 10 o'clock A. M. It is necessary that you be present at the hour named; otherwise, it will not be practicable to examine you.

This notification must be presented as your authority to appear.

Very respectfully yours.

G. K. ACKERMAN,

*Secretary and Executive Officer.*

F. No.

CITY OF NEW YORK,  
 CIVIL SERVICE SUPERVISORY AND EXAMINING BOARD. }

## SCHEDULE F.

No. 1.

April 19, 1889.

We certify that we have examined Henry A. Perry for the position of deputy tax commissioner, and that the result of his examination is as follows :

	SUBJECTS.	Standing.	Weight.	Product of standing and weight.
1	Handwriting .....	100	X 1	100
2	Arithmetic .....	70	X 1	70
3	New York city information .....	82	X 1	82
4	Tech .....	80	X 4	320
5	Experience .....	100	X 2	200
6	Spelling .....	100	X 1	100
Average standing .....				872
				87.20

[Examiners.]

## • QUESTIONS FOR DEPUTY TAX COMMISSIONER — ARITHMETIC.

Number 1.

Date of examination, April 19, 1889.

1. Give the area in square feet of a lot 20 feet front, 100 feet deep on the one side and 75 feet deep on the other side.

2. Give the area in square feet of an irregular lot 16 feet 8 inches front, decreasing to 14 feet in the rear, one side being square with the front and 101 feet deep and the other side being 98 feet 6 inches deep.

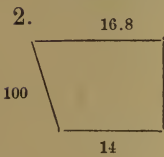
3. What is the area of New York city in acres?  
4. What is the tax on a property assessed at \$87,500 when the rate is 2.19.  
5. A person has to pay \$100.20 taxes at 12 mills on the dollar, there being no poll-tax. What is the assessed value of his property?

Number 1.

Deputy tax commissioner, April 19, 1889.

1.  $20 \times 100 \times 75$  or  $20 \times 872$  to get the square feet.

Answer,  $\frac{20}{1750}$  Number of square feet, 20.



Width, 30.8 or  $15 \times$   
Depth, 199.6 or  $99\frac{3}{4}$

$99\frac{3}{4}$
$15\frac{1}{4}$
<hr/>
495
99
<hr/>
114
<hr/>
1496.4
33.4
<hr/>

$99\frac{3}{4}$
$15\frac{1}{4}$
<hr/>
495
99
<hr/>
$11\frac{1}{4}$

10

Answer, 1529.2

or 399

$$\frac{4 \times 46}{3} = 18.304 \text{ or } 1529\frac{6}{12}$$

$$\frac{12}{12}$$

4. \$87.500 at 219 on \$1,000 =	2190
or \$87.500 multiply by 87	87
	<hr/>
	15330
	17520
	1095
	<hr/>
	1916.25

Answer, \$1916.25.

5. \$100.20	12 mills on the	\$
	Amt. value of property?	12 mills on \$100
		1200 mills on 100
\$12 to \$100.20		1200 mills on 1,000 or
		\$12 per \$1,000
		\$8,350.

## CITY INFORMATION.

Number.

Date, 19th April, 1889.

Position, deputy tax commissioner.

1. Where are the offices of the following departments of the city government? Street cleaning, World building. Law, Staats Zeitung building. Health, police department, dock, Fourth avenue and Sixteenth street. Charities and correction, Third avenue and Eleventh street.

2. What department has charge of the Tombs prison? Department of charities and correction.

3. Where are the following buildings? Mills building, Broad street and Exchange place. Mutual Life Insurance Company (new), Nassau street. New York Life Insurance Company, Broadway near Bowling Green. Potter building, Park Row and Beekman street.

4. Where is the United States signal service station in this city? On top of Equitable building.

5. Where does Lafayette place begin and end? Fourth to Eighth streets.

6. Give the position of the following hotels: Astor House? Broadway between Barclay and Vesey streets. Sinclair? Eighth street and Broadway. St. Cloud? Broadway and Forty-second street. Westminster? Irving place and Fifteenth street. Cosmopolitan? Chambers street and West Broadway.

7. In what building are the sessions of the United States courts held in this city? Post-office building.

8. How many wards lie above Harlem river and which are they? Twenty-third and twenty-fourth wards.

9. Name the waters which surround Manhattan Island? East or Harlem river, North or Harlem river.

10. Where is the real estate exchange located?

## QUESTIONS FOR DEPUTY TAX COMMISSIONER.

No. (1.)

Date of examination, April 19, 1889.

1. Describe the duties of a deputy tax commissioner.

2. What are assessed values?

3. What is the first and most important feature to consider in determining the value of a piece of property?
4. What are actual values?
5. Name the three most active elements which constitute the value of a piece of property?
6. Would give the area of a rolling piece of land by stating the square feet as superficial or as plans measure?
7. How many city lots are in an acre?
8. What is the length of New York city in miles?
9. Bound the city of New York.
10. How many wards in the city?
11. In what ward do you live?
12. In what ward is the city hall?
13. In what ward is Central park?
14. In what ward is Randall's island?
15. Where is the most valuable piece of land in the city of New York regardless of the improvement, and what is its value per square feet?
16. How do the values of other desirable pieces compare with the most valuable plot?
17. Name five such locations.
18. Which, as a rule, is the most valuable side of the street; north or south side; east or west side?
19. How much more valuable are corner than inside lots; and why?
20. Name the five elements, after size and location, which most affect the value of vacant property?
21. Name the five elements after size and location, which most affect the value of improved property?
22. How is property affected by the character of the business transacted upon it?
23. What is the value of a strictly first-class, well located, four-story and basement brown stone residence, twenty-five feet by sixty-five feet, inclusive of the site?
24. Does an expensive building on a lot always increase its value?
26. Are telegraph and electrical poles, wires of fixtures, real estate or personal property?
27. Are streets assessable as real estate?
28. Are elevated railroads personal property or real estate?
29. Are elevated railroads assessable; if so, how would you arrive at the value of them?
30. Are underground railroads assessable?



31. Are cable railroads assessable; if so, how would you arrive at the value of them?

32. How would you assess a piece of property having no frontage on a street?

33. How do you estimate the cubical contents of a building?

34. Would you assess land under water; and if so, how would you arrive at the assessable value of it?

35. Would you assess a pier running out into the river beyond the bulkhead line; if so, how would you arrive at the value of it?

36. Are bulkheads and slips assessable?

37. How would you assess leasehold property?

38. For what purpose are ward numbers used?

39. Give the width of the following streets: Broadway, above Thirty-fourth street, below Canal; Fifth avenue; Seventh avenue, above One Hundred and Tenth street; Fourteenth street; Sixteenth street; Seventy-second street.

40. Would you estimate the actual value of the real estate in New York city at more or less than \$2,000,000,000 of dollars?

DEPUTY TAX COMMISSIONER.

*April 19, 1889.*

1. The duties of a deputy tax commissioner are to assess all the real estate, both improved and unimproved, wharves, piers, bulkheads, water fronts, etc., in the district assigned him by the commissioners of taxes and assessments.

2. The amount placed upon for taxation.

3. Vacant property, location. Improved property, character of building thereon.

4. What it would sell for under ordinary circumstances.

5. Location, surroundings and rental.

6, 7. Sixteen (16), including streets.

8. Say thirteen miles.

9. East and North rivers or Harlem and Hudson rivers, Battery, twenty-third and twenty-fourth wards.

10. Twenty-four (24) wards.

11. Eighteenth (18th) ward.

12. Second (2d) ward.

13. Twelfth, nineteenth and twenty-second wards.

14. Twelfth ward.

15. Fifth Avenue Hotel site, say sixty dollars per square foot.

16. Southwest corner Twenty-third street and Fifth avenue, twenty-five by 100, ground rent \$25,000 per year, twenty-one years

lease to Western Union Telegraph Company, taxes assumed by Western Union Telegraph Company.

17. Southwest corner Broadway and Twenty-fourth street; southeast corner Broadway and Twenty-third street; northeast corner Fifth avenue and Twenty-sixth street; southwest corner Fifth avenue and Fifty-seventh street; northwest corner Fifth avenue and Fifty-seventh street.

18. As a rule the west side or avenues, north side or streets.

19. Altogether according to location. Third avenue, say thirty-five per cent; Fourth avenue, say thirty-five per cent; Fifth avenue, from forty to 100 per cent; Sixth avenue, about forty-five per cent; Eighth avenue, say forty per cent. Increase in rental commanding location together with much easier access and conveniences.

20. Character of grade of lot, future outlook of neighborhood, adjacent buildings, recent sales in vicinity and general character of improvement going on in said proximity.

21. Character of building, condition of building, rental value, terms of lease and general demand in the immediate vicinity.

22. In most instances location must be taken into consideration, lease and the character of the business.

23. Say thirty thousand (\$30,000) dollars.

24. Say twenty-two thousand (\$22,000) dollars.

25. It certainly does, and generally adjacent property.

26. Real estate.

27. When not opened by law.

28. Real estate.

29. Yes; general value of property along line of route, cost of construction, etc., etc.

30. Yes.

31. Yes; value of cable, rails and general outlay to be taken carefully into consideration.

32. That depends, entirely upon the location to the lot having a frontage as to the amount of assessment.

33. By its width, depth and height.

34. The law says, land under water is assessable; to arrive at the assessable value, you must be governed entirely by its surroundings, future, etc.

35. That can only be determined, if assessable, by deed showing how far water front extends, my valuation would then depend entirely upon surroundings.

36. Yes.

37. I would take unto consideration, location, surroundings, terms and length of lease, and its rentals, etc., etc.

38. To designate property and the only authority.

39. Broadway above Thirty-fourth street; Broadway, below Canal, sixty feet; Fifth avenue, sixty feet; Fourteenth street, sixty feet; Sixteenth street, forty feet; Seventy-second street, forty feet.

40. Very much more.

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NEW YORK CITY CIVIL SERVICE BOARDS. }  
COOPER UNION, NEW YORK, *April 18, 1889.* }

To E. S. STOKES, *Hoffman House, New York City:*

Sir.—Appending to the application of Henry A. Perry, for a position in the municipal service as a deputy tax commissioner is your general certificate of his good character and habits.

In addition to this, it is necessary before he can be appointed, that satisfactory information regarding his character, habits and associates, be received directly from his certifiers. I therefore respectfully request you to answer the following questions in writing after each, to sign your name, give your occupation and address at the foot, and return the paper to me at your earliest convenience.

Very respectfully yours.

G. K. ACKERMAN,

*Secretary.*

F.

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CERTIFIER'S STATEMENT.

NEW YORK, *April 19, 1889.*

How long have you known Henry A. Perry? Since the year 1880.

How long has he resided in New York city? I think all his life.

What is his character in regard to sobriety and trustworthiness? I consider Mr. Henry A. Perry thoroughly reliable and trustworthy and absolutely sober in his habits.

Other things being satisfactory, would you with your knowledge of his capacity, condition of health, character, associates and habits, employ him in your own private business, had you occasion for such services as he desires to render the city? I would.

Are you willing to allow your answers to these questions to be published? Yes.

Name, E. S. Stokes.

Occupation, Hoffman House.

Address, City.

NEW YORK CITY CIVIL SERVICE BOARDS }  
 COOPER UNION, NEW YORK, *April 18, 1889.* }

To R. W. TAYLOR, 40 *West Twenty-first St., N. Y. C.*

SIR.—Appended to the application of Henry A. Perry, for a position in the municipal service as a deputy tax commissioner is your general certificate of his good character and habits.

In addition to this, it is necessary before he can be appointed, that satisfactory information regarding his character, habits and associates, be received directly from his certifiers. I therefore respectfully request you to answer the following questions in writing after each, to sign your name, give your occupation and address at the foot, and return the paper to me at your earliest convenience.

Very respectfully, yours.

G. K. ACKERMAN,  
*Secretary.*  
 F.

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CERTIFIER'S STATEMENT.

*April 19, 1889.*

How long have you known Henry A. Perry? Since 1882.

How long has he resided in New York city? Life time.

What is his character in regard to sobriety and trustworthiness?  
 I regard him as a sober and trustworthy man.

Other things being satisfactory, would you with your knowledge of his capacity, condition of health, character, associates and habits, employ him in your own private business, had you occasion for such service as he desires to render the city? Yes.

Are you willing to allow your answers to these questions to be published? Yes.

Name, R. W. Taylor.

Occupation, Physician.

Address, 40 West Twenty-first st., N. Y.

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NEW YORK CITY CIVIL SERVICE BOARDS, }  
 COOPER UNION, NEW YORK, *April 18, 1889.* }

To JOHN HARDY, 265 *Broadway, New York City:*

SIR.—Appended to the application of Henry A. Perry for a position in the municipal service as a deputy tax commissioner is your general certificate of his good character and habits.

In addition to this it is necessary, before he can be appointed, that satisfactory information regarding his character, habits and associates, be received directly from his certifiers. I therefore respectfully



request you to answer the following questions in writing after each, to sign your name, give your occupation and address at the foot, and return the paper to me at your earliest convenience.

Very respectfully yours.

G. K. ACKERMAN,

*Secretary.*

F.

# CERTIFIER'S STATEMENT.

..... 18..

How long have you known Henry A. Perry? Over sixteen years.

How long has he resided in New York city? During all the time I have known him.

What is his character in regard to sobriety and trustworthiness? Good.

Other things being satisfactory, would you, with your knowledge of his capacity, condition of health, character, associates and habits, employ him in your own private business, had you occasion for such services as he desires to render the city? Yes.

Are you willing to allow your answers to these questions be published? Yes.

Name, John Hardy.

Occupation, lawyer.

Address, No. 265 Broadway.

NEW YORK CITY CIVIL SERVICE BOARDS, }  
COOPER UNION, NEW YORK, April 18, 1889. }

To W. BURKE COCKRAN, 38 *Park Row*, New York City:

SIR.—Appended to the application of Henry A. Perry, for a position in the municipal service as a deputy tax commissioner, is your general certificate of his good character and habits.

In addition to this, it is necessary, before he can be appointed, that satisfactory information regarding his character, habits and associates, be received directly from his certifiers. I, therefore, respectfully request you to answer the following questions in writing after each, to sign your name, give your occupation and address at the foot, and return the paper to me at your earliest convenience.

Very respectfully yours.

G. K. ACKERMAN,

*Secretary.*

F.

## CERTIFIER'S STATEMENT.

..... 18..

How long have you known Henry A. Perry? About eight years.

How long has he resided in New York city? To the best of my knowledge all his life.

What is his character in regard to sobriety and trustworthiness? Good.

Other things being satisfactory, would you, with your knowledge of capacity, condition of health, character, associates and habits, employ him in your own private business had you occasion for such services as he desires to render the city? Yes.

Are you willing to allow your answers to these questions to be published? Yes.

Name, W. Burke Cockran.

Occupation, lawyer.

Address, 38 Park Row, city.

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THURSDAY MORNING, *October 23, 1890.*

The committee met pursuant to adjournment.

Present — Senators Fassett, McNaughton and Ahearn.

MAURICE F. HOLAHAN, being recalled, further testified as follows:

By Mr. IVINS:

Q. I understood you to say yesterday that you had never examined the general books of the city? A. No, sir; not personally.

Q. Have you ever gone into the office of the general bookkeeper at all? A. Yes, sir; I have twice.

Q. How often? A. Twice.

Q. You have been in that office twice during the last twenty months? A. Yes, sir.

Q. What did you do when you went there? A. I went down there about some matter, I can't recall now, that I wanted an explanation about, and he gave me an explanation about what I wanted; I was in the habit of sending down when I did want any information, in the habit of sending down the chief bookkeeper.

Q. Have you ever looked over the balance sheets of the city as made by the general bookkeeper? A. No, sir; I have not.

Q. Do you know whether the general bookkeeper strikes a balance sheet of the city accounts? A. Only from the examination made by our chief clerk.

Q. Do you know from that whether he does or not? A. Yes, sir.

Q. You think he does? A. Yes, sir.

Q. But you don't know of your own knowledge? A. Not of my own knowledge; no, sir.

Q. Would you be able to-day to take any one of the accounts as it appears on the books of the general bookkeeper and explain it in itself or explain its relations to the other accounts in his books? A. I think I could.

Q. What makes you think so? A. I hardly know how to answer you.

Q. Do you think you could explain a set of books that you have never seen? A. No, sir; I could not.

Q. You know that these books are very intricate necessarily, don't you? A. They are.

Q. Then what makes you think you could explain the relations of one account to the other accounts if you were to see them? A. I said to you yesterday that I do not consider that I am an expert bookkeeper; that I don't understand double entry.

Q. Did you say yesterday that you did not understand double entry? A. Yes, sir.

Q. I did not understand you to say that? A. Yes, sir; but I can go into any department of the city government and find out whether the city get all the money due it or not, and whether there is any crookedness in that department.

Q. Do you consider that to be the duty of the commissioners of accounts? A. I think it is the principal duty.

Q. What are the duties of the commissioners of accounts? A. The commissioners of accounts are supposed to make an examination of all the receipts and expenditures for each quarter; they are supposed to give an exact statement of all the bonds that have been issued and cancelled and all the receipts and expenditures of the city government.

Q. Is that all of their duties? A. They are to make examinations of departments from time to time, such as the mayor requests to be done or suggests themselves to the commissioners of accounts.

Q. You said that you had an investigation into the dock department? A. Yes, sir.

Q. And you have made an investigation concerning the contracts for crib work in the charities' department? A. Yes, sir.

Q. And that you have made an investigation of the market bureau in the comptroller's office? A. Yes, sir.

Q. Have you made any other investigations? A. We made an examination of the receipts in the department of public works and the payments to the city chamberlain.

Q. Is that a public investigation of the same character as the investigation of the bureau of markets and the investigation of the

dock department? A. No, sir; since the close of the dock investigation, we have confined our efforts principally to ascertaining whether the money received by the various departments has reached the city treasury; an open investigation necessitates the expenditure of money for witnesses and stenographers and so on, and we did not care to incur that expense.

Q. What became of the market investigation? A. The principal witnesses in the market investigation left the city.

Q. What became of the investigation, as far as you were concerned? A. We made a report to the mayor.

Q. What was the result of your report? A. If you will give me a minute, I will explain, we examined all the collections made by the collectors in the various markets, and we also made an examination of the books in order to ascertain if the rents had been collected, and we worked in conjunction with one of the bookkeepers in the comptroller's office, and at the close of our examination we sent our report to the mayor; we could not go on with our public investigation.

Q. Who suggested to you the making of the market investigation? A. There were a number of letters sent by some of the market men who held stalls in the old market and failed to get them in the new market and they thought an injustice had been done to them; they sent them to the mayor and the mayor called our attention to it and told us we had better investigate the matter.

Q. At what time of the year was that? A. That was in February, I think, about the 1st of February, 1889.

Q. How long did that investigation continue? A. About two months and a half.

Q. What was the outcome of that investigation? A. I do not know what the outcome was because we really did not finish it; we suspended our examination; these people had left and we could not get a number of witnesses; so far as our investigation of the other revenues in the market bureau was concerned, the comptroller took immediate steps to make prompt collections.

Q. These charges were aimed at the comptroller, were they not, in the first instance? A. Only so far that we believed from the testimony that the comptroller had decided in regard to the assignment of these stands.

Q. Now, so far as it affected the comptroller, the investigation resulted virtually in his being relieved from all charges, didn't it? A. Well, the people who made the charges against him in the first place did not sustain them, so far as the comptroller was personally concerned; there seemed to be a division of authority — not exactly



of authority but of the work in the assignment of the stands; the comptroller testified to the fact that he did not make the assignment of the particular stands but left it to other people in his employ.

Q. What did that investigation cost the city? A. Well, so far as our bureau is concerned —

Q. What was the total cost of it to the city, so far as you know?

A. I think about six or seven thousand dollars.

Q. Whom did you retain as counsel? A. Delancey Nicoll.

Q. What did you pay Delancey Nicoll as counsel? A. I do not know; that was a matter between him and the corporation counsel.

Q. Didn't you, as commissioner of accounts, know what you paid your own counsel? A. I can't remember; I can give you the figures though; I do not carry all those things.

By Senator FASSETT:

Q. It is a matter of record, is it not? A. Yes, sir; it is a matter of record.

By Mr. IVINS:

Q. Do you know whether any other counsel were paid for account of the commissioners of accounts? A. I think not.

Q. What other expenditure did you have beside counsel fees, so far as you yourselves were concerned. A. Well, we had to pay witnesses and we had to pay for the service of witnesses.

By Senator FASSETT:

Q. For subpoenaing witnesses? A. Yes, sir; for subpoenaing witnesses.

By Mr. IVINS:

Q. How much do you suppose that cost in the aggregate? A. I do not think it cost more than \$100, or something like that.

Q. The comptroller's counsel was paid out of the city treasury? A. Yes, sir; I think he was.

Q. That was Mr. Coudert, was it not? A. Yes, sir; I think so.

Q. What was Mr. Coudert paid? A. I think his bill was about \$3,000, but the board of estimate and apportionment awarded him, I think, only \$2,500.

Q. Only \$2,500? A. Yes, sir; I may be wrong in those figures, but it is very close to it.

Q. Have you no recollection whatever as to what Mr. Nicoll's fee was? A. I think about \$2,500.

Q. In any event that investigation cost the city about \$5,000, plus your services and the services of your clerks for this period? A. Yes, sir.

By Senator FASSETT:

Q. And the subpoenaing of witnesses? A. Yes, sir.

By Mr. IVINS:

Q. And during which time you were unable to devote your attention to the other departments? A. Yes, sir.

Q. Taking the time of the commissioner of accounts for almost one-quarter of the year? A. Yes, sir.

Q. And what advantage was produced to the city by that investigation? A. I think that the people who were in arrears for market rents paid up promptly.

Q. By the way, was the question of arrearages of market rents one of the questions that was under investigation during that time? A. Yes, sir; it was not one in the public investigation, but it followed right after.

Q. Was it one in the public investigation which required that expenditure of \$5,000 for counsel fees? A. No, sir.

Q. Now, confining yourself to the public investigation? A. Well, so far as the public investigation was concerned, it brought out testimony and information for us which showed the necessity for making an examination of the revenue bureau, which brought to light the fact that there was a lot of arrearages for market rents and houses owned by the city.

Q. Do you think you needed to learn that incidentally; wouldn't an examination of the books of the bureau of markets have shown on the face of the books that the rents were in arrears? A. Yes; but we were new in it; we had not paid any attention to it until the close of this investigation, and then we went into the revenue of the bureau.

Q. Did you begin an investigation of the market bureau without first going to its books and seeing what the condition of the business was as shown on the books? A. Mr. Shearman had charge of the preliminary part of that; he was an old commissioner, and he took charge of all the market business up to the time that the investigation opened.

By Senator FASSETT:

Q. That is the public investigation? A. Yes, sir; up to the time that the public investigation opened.

By Mr. IVINS:

Q. Mr. Shearman was removed the day that the public investigation opened? A. Yes, sir; the day that the public investigation opened.

Q. And while Mr. Shearman was actually sitting, the new appointee came in and took his chair? A. Yes, sir.

Q. So that a new commissioner was sent in there to sit as commissioner of accounts, and conduct that investigation, who had not had an hour's experience in the office, wasn't there? A. Yes, sir.

Q. And you and that new commissioner, Mr. Baker, continued that investigation without any examination whatever of the books of the bureau? A. During the investigation we did not examine the books.

Q. So that your investigation progressed without a knowledge as to what the books would show on their face? A. Our investigation was to show principally how the assignment of these stands was made; whether any money was used to influence anybody in securing the stands; that was our investigation.

Q. And you found that one of your own employes had taken money? A. We found that he was charged with taking money.

Q. And you believe those charges sufficiently to remove him? A. He took the stand and swore that he did not and Mr. Curley swore he did, and there was a question of doubt between them.

Q. You discharged Mr. Hamilton nevertheless? A. Yes, sir.

Q. Do you know that Mr. Hamilton is employed to-day on the subways? A. I do not.

Q. As an inspector? A. I do not know.

Q. Recommended by Mr. Gilroy, the commissioner of public works? A. That I don't know.

Q. Are the employes on the subways on the city pay-rolls? A. No, sir; they are assigned by the commissioner of public works, but paid by the subway people.

Q. Do you examine the pay-rolls of the subway? A. No, sir.

Q. Do you know how the payments are made for account of work on the subway? A. I believe the bill is rendered to the subway people and they pay the money in for distribution among the inspectors, as I understand it; it is not money that belongs to the city.

Q. Does the city have anything to do about the way of payment of money out or the receipt of the money in as incident to the construction or operation of the subways? A. Not that I know of.

Q. Not that you know of? A. No, sir.

Q. Have you ever looked at the law to see what relation the subways bore to the city? A. No, sir; I do not think I did.

Q. You had a dock investigation? A. Yes, sir.

Q. That investigation was started by the suggestion of Mr. Cram some three weeks after he had gone into office, you testified yesterday? A. Yes, sir.

Q. To the effect that he was afraid there was something wrong there? A. Yes, sir.

Q. How long did that investigation take? A. The public investigation?

Q. No; begin now with your private preliminary investigation and the public investigation by you and then the investigation by the mayor based upon your charges? A. The investigation by our assistants in the office, so far as the books were concerned, was conducted so far as the best of my recollection is, about three months, and then the public investigation in regard to the leasing of two docks on the East river by a man named McCarthy; we had received letters from two people who claimed that there was an unjust discrimination in the assignment of vessels in that district, and the vessels instead of being divided among the other leased piers were all given to one pier; we made an investigation to ascertain who had the lease and who bid it in; we found that Mr. McCarthy had bid it in and that he did not claim the ownership of the lease, but said he had bid it in for a friend of his, but had no interest in it; McCarthy at that time was an assistant to the dockmaster in that district and exercised the power of assigning vessels.

By Senator FASSETT:

Q. That is the power that used to be exercised by the harbor master?

A. Yes, sir; then one of the gentlemen who inquired or made complaint was a man named Smyth; we could not find Smyth; it was claimed that he was the lessee of this pier that the discrimination was made against; while we were looking into that matter the corporation counsel came over and wanted to know if we knew a man named Smyth; he said that sore damage had been done to the pier and the city was compelled to make repairs and they did not know whom to hold responsible because they could not find Smyth; we began our public investigation in regard to the leasing of all piers and in regard to the various bureaus of the dock department.

Q. And the investigation lasted for how many months from the time that you began it until the time the mayor dismissed the charges?

A. Two months.

By Mr. IVINS:

Q. You mean the public investigation? A. I mean the public investigation.



Q. That is your public investigation? A. Yes, sir; with the corporation counsel as our counsel.

Q. At the end of which two months you preferred your charges? A. Yes, sir.

Q. Then the matter was pending before the mayor for how long? A. Two months or seven weeks.

Q. Two months more? A. Yes, sir; six or seven weeks it was pending before the mayor on account of so many adjournments that were taken.

Q. Then the charges were dismissed? A. Yes, sir.

Q. Whom did you have as counsel in that case? A. Do you mean the city?

Q. Yes; the commissioners of accounts? A. We had the corporation counsel.

Q. Did you at no time have any other counsel? A. No, sir.

Q. Whom did the commissioners of docks have as counsel? A. They had no counsel.

Q. They had no counsel? A. No; they had no counsel; a lawyer appeared in regard to the dredging matter.

Q. Didn't they have counsel before the mayor? A. Oh, certainly they did before the mayor; they had Mr. Peckham, Mr. Root and Mr. Irish.

Q. Have their counsel been paid out of the city treasury? A. I think not yet.

Q. Have their counsel rendered bills to the city treasurer? A. I don't know.

Q. Have you ever, as head of this department, ever made an estimate of what this particular investigation cost the city? A. No, sir.

Q. What would you think would be a fair estimate as to what that investigation either has cost or will ultimately cost the city? A. I have no idea what bills the lawyers will render.

By Senator FASSETT:

Q. The city will have to pay those bills won't it? A. I judge so.

Q. The complaints having been dismissed against the department? A. Yes, sir.

Q. If the charges against the dock commissioners had been sustained the city would not have been liable, would it? A. I think not.

By Mr. IVINS:

Q. In the examination before the mayor, did John H. Strahan appear as one of the counsel? A. Yes, sir.

Q. For whom did he appear? A. For the city —and Judge Rollins also.

Q. Judge Rollins and Mr. Strahan? A. Yes, sir.

Q. This Mr. Strahan is the same gentleman who received \$30,000 out of the city treasury for a bill which he did not draw? A. Well, Mr. John H. Strahan; I do not know whether he is the same man that you refer to.

Q. That is the thing that I refer to as having been brought out here in March last; he is not a cheap man either then? A. Well, I do not know any lawyers mixed up in municipal matters that are very cheap.

Q. That is your experience? A. Yes, sir.

By Senator FASSETT:

Q. Were those charges made to the mayor against all three of the dock commissioners? A. They were first; in the first place we were in favor of preferring charges against three; I was not; I was never in favor of including Mr. Cram.

Q. You actually did file charges with the mayor formally against the three? A. Yes, sir; the charges were first drawn against the three; Mr. Strahan thought we could not hold the charges against Mr. Cram; he had been only a short time in office, and his view was like my own, that whatever attempt was made to reform during time he was in, was made by Mr. Cram; he had only been in office about five months.

Q. Then you amended your charges so as to exclude Mr. Cram? A. Yes, sir; so as to exclude Mr. Cram.

Q. Wasn't that the only department of the city government which Tammany Hall hadn't entered into control of, through its appointees or representatives? A. I was under the impression from what I had read in the papers, that Mr. Matthews was as good a Tammany Hall man as Mr. Cram, and had actually joined the twenty-second district organization.

Q. That was your impression through what you had read in the newspapers? A. Yes, sir.

Q. Didn't you know that he was not? A. I do not know to-day that he was not.

Q. Didn't you know that he always held office as a member of the County Democracy? A. He was regarded as such.

Q. And received all of his appointments as such? A. Yes, sir; but I had understood that he had supported Mr. Grant.

Q. It is a fact is it not that a majority of that department were men who when they entered upon the offices were not the nominees of the Tammany Hall organization? A. That was so.

Q. That was the only department of the city government at that time of which that could be said, except possibly the park department? A. Yes, sir; except the park department.

Q. You have been in the park department since? A. Yes, sir.

Q. Would you be surprised if that dock investigation were to be shown to cost the city ultimately \$25,000? A. I don't know.

Q. Do you think the lawyers in that case rendered services as valuable as those rendered in the market investigation? A. I do not think I am competent to pass upon that question.

Q. What was the net result to the city of that investigation—what was done?

By Mr. IVINS:

Q. What benefit accrued to the government of the city of New York, because of the investigation of the dock department? A. I think there has been a better administration of the dock department since that time.

Q. What makes you think so; you haven't made any investigation since then? A. No; but the general impression of everyone—

Q. Do you, as commissioner of accounts, go on the basis of the general impression of everyone? A. In some cases.

Q. Now, you say you are satisfied that it resulted in an improvement of the administration of that department? A. Yes.

Q. Have you examined the books of that department since that time for the purpose of seeing? A. No.

Q. Have you checked off the books of the department in any way for the purpose of seeing what has been done, compared with the condition of the department then? A. No.

Q. Have you instructed any particular subordinate to do that? A. No.

Q. Then no particular subordinate had ever brought that to your knowledge? A. No.

Q. Then you are in entire ignorance of it, so far as the books, are you not? A. Yes, sir.

Q. Then if you say it has resulted in benefit to the city, because it has resulted in an improved administration of that department, you say that on the basis of general rumor? A. Yes, sir.

Q. What do you mean by "rumor?" A. I mean the general impression on the public mind.

Q. Do you, as a commissioner of accounts, believe in the reliability of the general impression upon the public mind in regard to details of administration of a department? A. Not all the time; but I think it has a bearing upon it.

Q. Has the public a mind — what do you mean by that?

Senator McNAUGHTON.— Isn't it spinning it pretty fine, Mr. Ivins, to ask this witness what we all know, a general rumor in regard to the matter, that an administration is faulty or not; he seems to have answered very frankly; he told you his source of information; what value may be given to that is for the committee to determine and not for him?

Mr. IVINS.— I think it is of the utmost importance, not only for this committee, but for this entire community, to know what manner of men the chief magistrate of this city appoints to hold the very important office of commissioner of accounts; he is not appointed after any civil service examination; he swears on the stand that he does not understand double entry bookkeeping; he is talking now about the administration of his office on rumor, and he tries to justify that examination or investigation as beneficial to the city, because there is a rumor to the effect that it is beneficial; now I want to see if that rumor stands for anything.

Senator McNAUGHTON.— This committee has held a half a dozen times that what the public intimate, or what the press said or intimated, was of some little value; I suppose he has taken it in the same way.

By Mr. IVINS:

Q. Do you recall any specific information, or any particular article in any particular newspaper, applauding the administration of the dock department as being improved? A. I have had conversations with business men.

Q. That is what I want to get at; which business men have you had conversations with? A. With various ones; I can not recollect their names.

Q. Were they business men doing business with that department? A. Yes, sir; I am pretty well known since I was in the government service to people on the river front; my business called me down there to the various steamship companies.

By Senator FASSETT:

Q. I think we can let it go at this; that the general impression is that the administration has been improved and that he can not put his



fingers on any specific illustration of it; would that be your view?

A. Yes, sir.

By Mr. IVINS:

Q. Would you be surprised to find that it has deteriorated, if you looked at their books? A. Yes, sir.

By Senator FASSETT:

Q. I suppose you are satisfied that they don't dump dirt in the night-time that they have dredged out in the daytime? A. Yes, sir.

Q. Do you know that they ever did? A. Only from the testimony before our committee.

Q. That testimony went before the mayor? A. Yes, sir.

By Mr. IVINS:

Q. You felt yourself justified in making these charges? A. Yes, sir.

Q. And you believe that they were virtually sustained by the evidence taken at the time they were made? A. Yes, sir.

Q. Was there any new evidence introduced before the mayor? A. It was all contradictory; people called before the mayor testified differently from what they did before the commissioners of accounts.

Q. Their testimony in the two cases was different? A. Yes, sir.

Q. Does the record of the examination before you show that they swore in one way and the record of the examination before the mayor shows that they swore in another way? A. Yes, sir; if you will take the testimony of the chief in Mr. Green's office, you will find that his testimony before the commissioners of accounts was entirely different from his testimony before the mayor.

Q. Was it radically different? A. Yes, sir.

Q. So radically different that the two phases were irreconcilable? A. Yes, sir.

Q. Did you call the attention of that to the grand jury? A. No, sir.

Q. Did you call the attention of that to the district attorney? A. No, sir.

Q. Did you talk to the mayor about that? A. No, sir.

Q. Did you call his attention to it? A. No, sir; the mayor and corporation counsel had examined the testimony in both investigations.

Q. Did you, as a matter of justification to yourself, when your charges were dismissed by the mayor, call the attention of either the mayor or the corporation counsel to the character of the conflicting evidence of the same parties? A. No, sir; it showed for itself.

Q. Does a thing of that kind which shows for itself, but which is not called to the attention of the prosecuting officer by a public

official, so placed as you are, ever get to his attention? A. Well, sometimes.

Q. Why didn't you call the matter of that conflict of evidence to the attention of the prosecuting officer of this county? A. Because I was under the impression that the corporation counsel saw the contradictoriness just as well as I did..

By Senator FASSETT:

Q. Let me ask you was this evidence that was contradictory as given before the mayor explained by these witnesses on the ground that they had been mistaken? A. Yes, sir; in some cases, and in other cases they said that they did not remember that they testified in that way; that if they did they did not mean it that way; they said if they testified that way they could not remember that they had, but if they did, then they made a mistake and wished to correct it.

Q. Have you this evidence printed that was taken before you? A. Mr. IVINS has it, that is the only copy that we have.

Mr. IVINS.—I have a copy of the evidence taken before the commissioners of account.

Senator FASSETT.—Is the evidence so contradictory that it would amount to perjury either in one case or the other, in your judgment? A. In changing it they said that they did not remember testifying in that way and if they did they made a mistake; I do not know whether you could convict a man of perjury after a statement of that kind.

Senator FASSETT.—It would be very doubtful if they could or not.

Mr. IVINS.—I think so.

Senator FASSETT.—Then it is very interesting as showing how people will testify.

By Senator FASSETT:

Q. At what intervals of time were these examinations made?

A. Between the mayor's and ours?

Q. Yes. A. Less than two months; if some of those witnesses had testified before us as they testified before the mayor, I do not believe I would have agreed to sign my name to the charges and asked for the removal of those people.

By Mr. IVINS:

Q. Your third investigation of a particular character has been the investigation of the park department has it not? A. Yes sir.

Q. That is also a department a majority of the commissioners in which were not appointed as representatives of Tammany Hall, is it

not? A. I do not know what the political complexion of the park department is and I do not know anyone who can tell me.

Q. You know that it is not a Tammany Hall department, don't you?

A. That I am not certain about.

Q. You are not even certain about that? A. No.

Q. Is Mr. Robb a Tammany Hall man? A. No, sir; I don't believe he is; I do not know whether he is or not.

Q. Who are the other commissioners? A. Mr. Borden.

Q. Is not Mr. Borden a Republican? A. I see in the newspapers that he is.

Q. You know that he is not a member of Tammany Hall, don't you?

A. That I do not know.

Q. Have you ever seen him at a Tammany Hall meeting? A. Never.

Q. Who is the president of the board? A. Mr. Gallup.

Q. He is a Tammany Hall man? A. I never saw him in Tammany Hall in my life.

Q. You know that he was appointed by Mayor Grant, don't you?

A. Yes.

Q. You know that he is a member of Tammany Hall, don't you? A. I do not; honestly.

Q. Who is the fourth commissioner? A. Mr. Hutchings.

Q. Don't you know that Mr. Hutchings was a County Democrat and appointed as a County Democrat? A. I never heard so.

Q. What led to your making an investigation of the park department? A. Well, Mr. Barker intended to go into the park department when he was first appointed, but postponed it until such time as he could get enough of the assistance of the office to go in and make the investigation; and he went in there and made the investigation with them; he took complete charge of that investigation in the park department.

Q. Have you ever heard Mr. Barker speak in terms of hostility of the park commissioners? A. Never in my life.

Q. When was that investigation begun? A. I think in the spring.

Q. By whom was it begun? A. It was begun by Mr. Barker, Mr. Melville, Mr. White, Mr. Howe, and, I think, Mr. Hayes.

Q. And it was continued up to what time? A. It was continued up to about two months ago.

Q. What did it result in? A. Well, it resulted in showing that there was a very large shortage in the forage; it resulted in showing that the park department menagerie had been used as a warehouse for the sale of animals imported out here for park purposes; it resulted in

showing a shortage of old uniforms and new uniforms for the park police, and other things that I don't quite recollect.

Q. How was that result shown — I mean in what manner did you certify to that result?

By Senator FASSETT:

Q. Did you make any report of the result of the investigation? A. Yes; we made a report to the mayor.

By Mr. IVINS:

Q. Did you recommend in that report to the mayor a public investigation of the department? A. No, sir.

Q. Was your report to the mayor equivalent to charges against the department? A. Well, it must be interpreted as charges, because we showed that there had been a lack of proper work in the department and care.

Q. It was not a series of formulated charges and specifications? A. No.

By Senator FASSETT:

Q. Were there any recommendations accompanying your report? A. No; it was without recommendations.

By Mr. IVINS:

Q. Have you a copy of the report now? A. The report was sent by the mayor to the park commissioners, and they have it now to answer the commissioners of accounts in regard to all the charges preferred against them.

By Senator McNAUGHTON:

Q. Have you a copy of the report? A. We have a copy in the office; the copy we sent to the mayor he sent to the park department.

Q. Is it printed? A. Yes, sir.

Q. Will you produce a copy of that report? A. Yes, sir.

By Mr. IVINS:

Q. Is there some one here who can go over and get it now? A. I do not see anyone.

Q. Can you describe it sufficiently and where it can be got so that we can send for it? A. I will just write a little note.

Q. You say the mayor sent that report to the park commissioners to be answered? A. Yes, sir.

Q. How long ago was it that it was sent to the park department? A. To my best judgment, about five or six weeks.



Q. Has it been answered? A. I understood that the park department had sent a copy of the charges against each of the bureaus in the department to the heads to make the answer; whether they have made the answers of the commissioners — of the heads of these bureaus I don't know; I understood that they had, but I am not positive of it.

Q. Why did you discontinue the investigation of the department of charities and correction? A. We never began the investigation, except of the crib matter.

Q. Why did you begin an investigation of the street cleaning department? A. Because it was one of the departments that hadn't been examined, I do not believe, at any time by the commissioners of accounts, and our purpose is to make an examination of all the departments if we have the time and opportunity.

Q. What sort of an examination is now being made of the street cleaning department? A. Well, examination into the contracts and an examination into the forage to find out whether all the merchandise and property is properly accounted for.

Q. When you say an examination into the contracts, what do you mean by that? A. Well, to ascertain whether the terms of the contracts were properly carried out by the contractors.

Q. How can you ascertain that so far as concerns contracts of six months or a year ago where the supplies have all been delivered? A. Well, we can't, of course, except by the books of the department.

Q. The books of the department would not show what the character of the supplies were, would they? A. No.

Q. If there were false weights or measurements, it would not show that there was under weight or measure? A. We would have to take the figures we found in the books.

Q. Now, tell me some one thing that the park department supplies itself with — forage? A. Yes, sir.

Q. Now, how would you go about to examine a contract for forage, upon which the forage was actually being delivered? A. Well, I would first ascertain — do you mean whether the forage first got to the department or not?

Q. You said you were examining contracts; now, I say, take a contract for forage where the forage is now in course of delivery, what sort of an examination touching that business would you make? A. Well, all the forage that was delivered, if it was certified as to weight and quality by the inspector or head of the bureau, we would have to accept that.

Q. Wouldn't you go behind that certificate? A. No; except we had good reason to believe fraud was committed.

Q. If you felt that there were good reasons to feel that there was fraud committed, would you then go behind the certificate? A. I think we would; yes, sir.

Q. Well, how would you go about going behind the certificates? A. Well, in regard to the quality of the merchandise delivered, we could find out whether it was up to the specifications or not.

Q. If fraud had been committed, it would be committed before every person who signed the certificate, wouldn't it? A. Yes.

Q. And the person who signed that certificate is a public officer? A. Yes, sir.

Q. And the only way to investigate that public officer is to dispense with the certificate altogether, isn't it? A. If you had any doubt about it, of course.

Q. Whether you have any doubt or not, if you are going to check off his work you would have to go behind the certificate? A. We have got to consider that the officer who certifies to a thing is just as honest as we are.

Q. Is that what the position of the commissioner of accounts is for the purpose of conducting examinations and investigations? A. I do not consider that we ought even to suspect that a man is guilty until he is proven so.

Q. But is not this the point, that it is neither a suspicion of honesty or dishonesty, of guilt or guiltlessness — is it not simply that you are put there for the purpose of investigating, if you investigate at all, the original phases from the initiative of every transaction? A. Yes, sir.

Q. The assumption in the case in regard to forage that a man is honest is just as good as the assumption that a man in footing up a column of figures has footed it accurately? A. Yes.

Q. When you refoot a column of figures it is not because you asperse the character of the man who footed it before, is it? A. No, sir.

Q. It is simply for the purpose of seeing whether he has done his work properly? A. Yes, sir.

Q. Why should you accept the certificate of any one to the effect that proper weights and measures had been given, or that proper qualities had been received? A. We would not accept the certificate if we could go behind it and prove whether that certificate was wrong or not.

Q. Couldn't you go behind it with regard to qualities at once? A. Certainly; at once.

Q. Do you go behind it in regard to qualities? A. We do if we can get a part of the merchandise so as to make a comparison.

Q. Is that a rule of the office? A. It is where we can do it.

Q. Have you investigated the supplies to the charities and correction; let us take that for an example? A. We have never made an examination of the charities and correction, except in regard to the crib.

Q. Let us take the case in regard to the charities and correction; they get large supplies of flour? A. Yes, sir.

Q. They get large supplies of other provisions? A. Yes, sir.

By Senator FASSETT:

Q. Groceries and provisions of all kinds? A. Yes, sir.

By Mr. IVINS:

Q. And the exact quality which they are to receive is described in the contract; is it not? A. Yes, sir.

Q. If you were investigating that department, would you, or would you not, in entire disregard of the certificate take the contract in one hand and have an expert examine the goods in the other hand to see whether or not the quality of the goods contracted for had been received? A. Yes, sir; that is just what we would do.

Q. Then you would go behind the certificate to begin with? A. Yes, sir; where it was possible to do it; but if a hundred barrels of flour had been delivered a year ago and used up, of course, we could not do it.

Q. In order to avoid any such things as that, I speak of forage in the street cleaning department which was now actually being received; are you making such an investigation? A. No, sir; I don't think we are.

Q. Has anybody in your behalf been instructed to look at the goods now being received and to compare them with the contract and see whether they were the goods contracted for? A. No; but we will before we finish.

Q. How long have you been at that work? A. About five or six weeks.

Q. How many men have been on it? A. Three part of the time and part of the time four.

Q. Now, tell us what you do personally as a commissioner of accounts? A. When we send a man into a bureau or into a department I examine the laws and the ordinances, everything that I consider has a bearing upon any particular bureau or department.

Q. You are a lawyer, are you not? A. No, sir; I am not.

Q. I thought you was? A. If I was I would not be commissioner of accounts.

Q. Well, not being a lawyer, you examine the laws, nevertheless?  
A. Yes, sir; then our assistants go into the departments, and every day they report to us the progress that they make; if there is anything of immediate importance why we go down; there was a case there in the examination of the Court of Special Sessions where a large deficit was found, and I went down with the examiners and found out the amount of the deficit with them.

Q. Have you ever made any other personal examination of any other department? A. No; except to assist.

Q. Well, assisted in what way? A. Well, when we were short-handed and our men were divided up in a great many departments; I have done it in the department of public works; I went into the water register's bureau.

Q. How long were you in the water register's bureau; how many days did you actually spend there? A. I could not tell; off and on.

Q. Well, were you there a dozen times? A. Yes, sir.

Q. Were you there two dozen times? A. No, sir; I don't think so.

Q. Then the volume of your work consists in your having looked at the accounts of the Special Sessions, having been somewhat less than two dozen times in the bureau of the water register, and having conducted an open investigation of the markets and of the docks?  
A. Yes, sir.

Q. Did you take any part in the investigation of the contract for crib work in the charities and corrections? A. Only looking over the old contracts.

Q. Looking over the old contracts? A. Yes, sir.

Q. And how long did that take you? A. Oh, I could not tell how long it took me; during the market investigation I looked over the books of the collectors in the various markets for the various markets; I don't know how much I did; there are a dozen things that I did that I can not remember just now.

Q. Have you ever made a general study of reports of the several departments for the purpose of familiarizing yourself with the condition of those departments? A. Well, I have been reading reports; yes; there is not a report of the comptroller that comes out that I do not read; I have read the street cleaning department reports, the fire department reports, and I have read nearly all of the department reports; I like to read them.

Q. Did you ever read the report of the department of the bureau of assessors? A. I read the report, I think of the —

Q. It is included in the tax department reports? A. I know it; I read the report I think of an investigation of the assessors depart-



ment; I do not know when it was published; but I did not know much about the city government when I went in; I have been familiarizing myself with it by reading the reports of the departments and by reading the laws and by doing everything else that I thought would fit me to fill the office.

Q. It is a pretty big business, the business of New York city, is it not? A. It is a very large business.

Q. And how long do you think it would take a man to thoroughly familiarize himself with, not the details, but even the general aspects of the city business? A. I think it would take a man a long time.

Q. It would take a couple of years at least, would it not? A. I think so.

Q. That is just the term of the mayor? A. Yes, sir.

Q. And the commissioners of account hold their office by an uneven tenure? A. Yes, sir.

Q. It is very likely that the commissioners of accounts would begin to know quite a good deal about the city's business when they go out? A. Yes, sir; I think the commissioners of accounts ought to be appointed like other commissioners.

By Senator McNAUGHTON:

Q. Does not that question apply to the office of comptroller or to the office of mayor as well? A. Yes, sir.

Q. It would take a man as long to learn the duties of mayor and comptroller as it would to learn the duties of your office? A. Yes, sir.

By Mr. IVINS:

Q. They are both elective offices, the mayor and comptroller, are they not? A. Yes, sir.

Q. And if the people do not select experts to fill those positions it is their own fault, is it not? A. Well, I suppose it is.

Q. But how is it in the case of a mayor who agrees to select experts to do the work, and then does not; now, you say that you looked at the report of an investigation of the assessor's office? A. I think so; I have looked over the reports also of the assessors.

Q. We have been investigating that office, and we have not run up against the fact that there is any report in existence of any investigation of the assessor's office; I should like, if your memory is reliable in that regard, to know where you found that report? A. I think I found it among some of the old records.

Senator FASSETT.—The ancient records?

The WITNESS.—Yes, sir; the ancient records.

Q. You have read their quarterly reports, have you? A. Yes, sir.

Q. In reading their quarterly reports, was your attention drawn to the fact that the delays in the confirmation of assessments, whether due to the fault of that board or due to the fault of the board of revision, was due to the fault of the corporation counsel's office, which nevertheless cost the city over a quarter of a million of dollars in loss of interest? A. I never calculated it.

Q. Was your attention ever called to the fact, by reading those reports, that there was such a loss of interest? A. No, sir; I don't know that it was.

Q. And you never thought of making such an investigation? A. No, sir.

Q. Do you not know that it is apparent on the face of those reports and on the face of the statute that that loss of interest is occurring or was occurring up to a very recent time? A. No, sir.

Q. There is a case where it was necessary to look outside of the statutes, is it not.

Senator FASSETT.—That is, that condition of things would be revealed by the face of the report, would it not? A. I should judge so; yes.

Q. Now, have you made any investigation, directly or indirectly in any manner whatever, of the corporation counsel's office? A. We have not, sir.

Q. Has it never been suggested to you to make such an investigation? A. Never.

Q. Do you know whether the commissioners of accounts ever have made an investigation of the kind of that office? A. I believe an investigation was made by Mr. Deming two or three years ago; he was paid out of the commissioners of accounts' funds; I think so.

Q. Mr. Deming was retained by the commissioners of accounts as counsel to examine that office? A. Yes, sir; that is it.

Q. The commissioners of accounts not being lawyers? A. I believe that is the only examination that I know of.

Q. Has any examination been made since then, even to the extent of checking off the expenditures in the office? A. I think not.

Q. Now, you say that you read the comptroller's reports; have you read this report of the comptroller for the year ending December 31, 1889? A. Portions of it.

Q. The question I want to ask you now is not at all invidious in its nature; I want to know if you understand that report, Mr. Hollahan? A. I do, to a great extent.

Q. Have you in your office any documents, accounts or papers of any kind which will disclose to this committee exactly what the general

fund is, and what it consists of? A. I do not know that we have any documents in the office; I have a general idea of what the general fund is.

Q. Can you tell us generally what the general fund consists of? A. Well, it consists of the unexpended balances of appropriations; there are certain fees from the county clerk and the register—I do not know that these various fees make up the general fund; I think the general fund was between \$1,000,000 and \$2,000,000 last year; I think so.

Q. What distinguishes the general fund from the sinking fund? A. Well, the general fund is not pledged to anything particularly as the sinking fund is; the sinking fund is either pledged to redeem the debt or to pay the interest upon the debt.

Q. By that, you mean that certain funds which come into the city treasury from certain sources of revenue— A. Yes, sir.

Q. [Continuing] not being pledged, constitutes the fund over which the city officials have a complete and absolute power? A. Yes; the general fund.

Q. And can you tell the committee how to go about an investigation of that general fund, and its history and operation, so that it may aid us in prosecuting this inquiry? A. Well, I could not tell the history of the general fund; I was a long time finding out what the general fund was myself.

Q. How long did it take you to find out what it was? A. I guess it was a year before I could find out what it was; nobody seemed to know.

Q. Was there anybody in the comptroller's office who seemed to know? A. Very few people seemed to know; I asked several and they did not know it.

Q. Did you ever ask the general bookkeeper? A. I think he was one of the gentlemen that we asked, and he seemed to be a little puzzled about what the general fund was himself.

Q. Did you ever ask the deputy comptroller? A. No, sir; I did not ask the deputy comptroller.

Q. Do you not think that he could have told you? A. I do not know that he could give me any more information than I had myself, but I should judge after as long an experience there as he has had, if any man could tell, he could.

Q. Now, have you ever made an investigation of the manner in which revenues of the general fund are collected, with a view of seeing whether all that belongs to that fund has been collected? A. I

think Mr. Owen has made an examination, our bookkeeper; I think he keeps track of the general fund; that is, as well as he can, and I think he does it well; I do not know.

Q. How long did you say he had been in the office? A. Mr. Owen has been in the commissioners of accounts' office, I think, eight or nine years; I think he has been there under several commissioners.

Q. Have you ever made any calculation whatever as to what the average interest rate now paid to the city on its bond of indebtedness is? A. Well, I think it is between three and four per cent, the average.

Q. That is the average? A. I think so; the interest is two and a half on some, three, four, five, six, but I think it will average somewhere about four per cent.

Q. Have you any suggestions to make to the committee in regard to the reorganization, either of the sinking fund or the general fund, or the simplification of the books of the city? A. No, sir; I haven't any recommendations to make.

Q. Have you ever studied the books of the sinking fund or of the general fund to see where either can be charged to the benefit of the city? A. I have been studying as to the general fund and the sinking fund, and all these funds, and I am still studying.

Q. Then you have no suggestions to make? A. No, sir.

Q. Have you not had sufficient force to enable you to make any investigation whatever of the fire department works? A. We have not had force enough in the commissioners of accounts' office to make the examinations as extensive as we think they ought to be made; I think every department in the city government ought to be examined at least once a year, but the commissioners of accounts who preceded us, and the commissioners of accounts who preceded them, have all asked for larger appropriations.

Q. Would you be surprised to learn that with a force of accountants not half so large as your force, working intermittently only and with the aid of this committee, this committee will be able in much less than what will aggregate four months of actual time to have made a careful, accurate and thorough examination of every set of books in the city? A. Would I be surprised?

Q. Yes. Yes, sir; I would.

Q. That would be a surprise? A. Yes, sir; I think it is very complimentary if they do it.

MR. IVINS.—That is all, Mr. Hollahan, unless the committee have any further question to ask.



By Senator FASSETT:

Q. Mr. Hollahan, the general powers of the commissioners of accounts enable them to go into every department in the city government, do they not? A. Yes, sir.

Q. They have a right to investigate and to have produced before them all the records and the books showing the business transactions of each of the city departments and each of the bureaus of all the city departments; is that right? A. Yes, sir; that is correct.

Q. Have they power, also, to summon and examine witnesses? A. They have; yes, sir.

Q. On their motion? A. Yes, sir.

Q. And to examine them under oath? A. Yes, sir.

Q. You have the power, also, and it is a part of your duties, is it not, to recommend to the board of estimate and apportionment any changes either in extension or restriction of any bureau or any department that you are convinced would be a proper change from your investigation? A. Yes, sir; when they are called upon by the board of estimate and apportionment to do so.

Q. In other words, the commissioners of accounts are potentially a perpetual investigation committee, are they not? A. Yes, sir.

Q. You are essentially founded upon that trust? A. Yes, sir; to a certain extent.

Q. It is your business officially to be suspicious of every department, is it not? A. Yes.

Mr. IVINS.—Let me put it in this way: It is your business to take nothing for granted, is it not? That is about the same thing.

Q. A large part of the business of your department requires expert knowledge as to bookkeeping, does it not? A. Yes, sir.

Q. You do not claim to be an expert bookkeeper? A. No, sir; I do not.

Q. Do you not find yourself handicapped by your lack of familiarity with expert bookkeeping? A. Well, if I had to go in and make examinations myself personally, I would be; yes; if I had to make an examination of any bureau or any of the departments, the fire department, the police department, or any other department, in regard to ascertaining whether the money that was appropriated had been properly spent, whether the fees collected had been turned over to the city, I think I have information and knowledge enough at the present time to find out if anything was wrong in the departments.

Q. Just in so far as you have to depend upon your subordinates for expert bookkeeping skill, the efficiency of your work depends upon their ability; is not that so? A. Yes, sir; and it always has been so.

Q. It always has been so? A. Yes; among the commissioners.

Q. How many commissioners are there in your board? A. There are two, but they do not call themselves a board.

Q. They do not call themselves a board? A. No, sir.

Q. Have you ever made any recommendations since you have been in office to the board of estimate and apportionment, which, if adopted, would have resulted in economy in the city government? A. We have not made any suggestions to the board of estimate and apportionment.

Q. You have not made any suggestions with reference to any department or bureau, which, if adopted, would cut down the annual appropriations? A. We have not made any suggestions at all.

Senator McNAUGHTON.—Are you required to do so under the law?

The WITNESS.—If we are called upon by the board of estimate and apportionment.

Q. You are permitted to do so under the law? A. Yes, sir; we are permitted to do so under the law.

Senator McNAUGHTON.—You are permitted to do a great many things; but is that one of your duties under the law under which you act?

The WITNESS.—Yes, sir; it never has been made except as called for; there is nothing on file in our office to show that any of our predecessors ever made any report, such as you speak of, to the board of estimate and apportionment.

Q. It is your duty, is it not, to make such recommendations if, in the course of your investigations, you discover an occasion for it? A. Yes, sir; certainly.

Q. And it is within your duty, is it not, to exercise your utmost vigilance and diligence? A. Yes, sir.

Q. Now, Mr. Hollahan, if the commissioners of accounts should exercise the functions of their office in a perfect or ideal manner, there never could grow up and continue in any city department any serious abuse, could there? A. Not if they made an examination of every department, and made it thoroughly.

By Mr. IVINS:

Q. In that connection, let me ask this question, did you ever hear that in almost all of the European cities they have regular courts of accounts? A. What is that, sir?

Q. Did you ever hear that in almost all of the European cities they have regular courts of accounts? A. No, sir; I did not.

Q. That they have sworn official commissioners of accounts in most of the cities of Europe? A. I never heard of it, sir.

Q. And that those commissioners of accounts or courts of accounts exist for the purpose of supervising the general accounting system of the city and give it uniformity and simplicity and that the result of that is to lead to a ready publicity? A. No, sir; I never heard of it.

Q. Do you know that it was availing of the knowledge of the existence of such facts that the commissioners of accounts' office was first created in this city, and the necessity of just that sort of thing was urged as the reason for creating the commissioners of accounts in New York city? A. I am not familiar with the early history.

Senator FASSETT.—There was nothing to prevent your commission going into the sheriff's office and discovering the abuses that existed there as discovered by this committee, was there?

The WITNESS.—No, sir; not if we went in that office, but we had not reached that office. Of course, we could not find out anything in a department until we began an investigation.

Q. Was there anything to have prevented your going into the register's office and finding out the general condition of things there prevailing? A. There was nothing to prevent us if we were not somewhere else.

Q. What determines, in your mind, the necessity for the investigation of one particular department over another particular department; how do you come to make up your mind that you will now go into this department instead of that? A. Well, we are generally guided by the length of time elapsing between investigations.

Q. Well, had there ever been an investigation of the register's office as to its accounts and the personnel of the office? A. Not that I remember.

Q. Then, if you were governed by the length of time that had elapsed since the investigation, you would have been led very straight into the register's office, would you not? A. Well, it was a salaried office until two years ago, and all the clerks were paid by the register.

Q. Did you ever go into the county clerk's office? A. No, sir; that was in the same condition.

Q. The county clerk's office was in the same position? A. To some extent.

Q. Was it not a fact that there was paid into the county clerk's office for the use of the county clerk's office, upwards of \$54,000 per annum? A. Yes, sir.

Q. Had any examination of that department been made for a quarter of century? A. We have no record in our office.

Q. Has any record yet been made? A. No, sir.

Senator FASSETT.—There is nothing to prevent you commissioners from investigating the police department, is there?

The WITNESS.—No, sir.

Q. And there never has been? A. No, sir.

Q. Well, if it is highly desirable to investigate that department, you have abundant powers to do so, have you not? A. We have; yes, sir.

Q. Now, is it not a matter of fact that the office of the commissioners of accounts exists for two purposes, first, for systemizing and simplifying the accounts so that publicity is obtained, and that the discovery of error will be easy; and second, for the purpose of pursuing just such investigations in aid of the mayor, as chief magistrate, as are now being pursued by this committee? A. To assist the mayor; but the only thing that we could do, Mr. Ivins, is to recommend to the comptroller where we see a change is necessary in keeping the books of any department.

Q. That is all that would be necessary to do; have you ever done that? A. We did in regard to the dock department?

Q. Have you ever done it in regard to any other department? A. No, sir; that is the only place we saw the necessity of it.

Q. Now, what would you recommend to this committee as the proper practice in regard to the accounts in the police department and the payments out by the police department; do you know that the police department dispenses its own funds? A. Yes, sir.

Q. Do you know that it receives its appropriations in monthly installments? A. Yes, sir.

Q. And you know that it has its own treasurer, who is not the city treasurer? A. Yes, sir.

Q. And you know that its system is divergent in this matter from the general system of the city? A. Yes, sir.

Q. Do you know of any reason why that system should prevail? A. I do not; the commissioners of accounts are the only people who examined the vouchers of that department.

Q. And if the commissioners of accounts do not examine the vouchers accurately, then the vouchers go unexamined? A. Yes, sir; we examine them.

Senator FASSETT.—Do you mean that, that there is no one who examines the vouchers of the police department except you commissioners?

The WITNESS.—That is all.

Senator FASSETT.—That the accounts are not audited in the same way as the accounts of the other city departments?



The WITNESS. — They only send to the comptroller's department duplicate vouchers; we examine the original vouchers when we make our examination.

Q. Is not this the fact, that moneys appropriated to that department, are paid over in lump sums, so much per month to that department? A. Yes, sir.

Q. On a requisition from that department? A. Yes sir; one twelfth.

Q. And when the auditor has audited that requisition, so far as concerns its facial regularity, that the auditor of accounts in the comptroller's office has then ended his work? A. Yes, sir.

Q. Then the money goes to the police department? A. Yes, sir.

Q. And the police commissioners, acting by their proper subordinates pay out their proper money? A. Yes, sir.

Q. And the vouchers for the payment of that money are never examined by any other department of the city government except to the extent that you examined them? A. The commissioners of accounts get the original vouchers and examine them, which are kept on file.

By Senator FASSETT:

Q. The board of estimate and apportionment in the first place have to assign the amount of money that the police department is going to get and leaves it with the commissioners of accounts to make any inquiries that they please? A. Yes, sir.

Q. But with that exception you are the only authorities who supervise that? A. We are the only authorities that examined the original vouchers.

By Mr. IVINS:

Q. Now whose business is it to examine the original vouchers; who of your subordinates? A. Mr. Owen.

Q. Mr. Owen is a pretty busy man, is he not? A. Mr. Owen is a pretty busy man; they are all busy.

Q. How often does Mr. Owen go to the police department and examine those vouchers? A. Once a year.

Q. Once a year? A. Yes, sir.

Q. How long does it take him to examine those vouchers? A. Well, off and on, two or three months, I think.

Q. Then, here is a department whose accounts, prior to the payment of the amount paid out in an account, are never audited by any other department? A. Except the police department.

Q. That is, they audit their own accounts? A. Yes; they audit their own accounts.

Q. We then have the anomaly presented of a department of the city government which receives its own money, audits its own accounts, pays its own money, and on which payment or audit no check is placed until at the end of the year when your clerk goes up there and looks over the vouchers? A. Yes, sir.

Q. The mayor has a right to call up those vouchers at any time, has he not? A. They file the duplicate vouchers with the comptroller.

By Senator FASSETT:

Q. Do you think that is a good system? A. I do not.

Q. Have you ever discussed that system with your fellow commissioner? A. We have talked over it.

Q. Have you ever made an official recommendation for its change? A. No, sir.

By Mr. IVINS:

Q. Now, take the question of auditing in the comptroller's office itself; do you know, that in almost every city in this State, there is a city treasurer? A. Yes, sir.

Q. Do you know that there is a comptroller, or some one corresponding to a comptroller? A. Yes, sir.

Q. And you know that there is an auditor? A. Yes, sir.

Q. You were in the Legislature, were you not? A. Yes, sir; for three or four years.

Q. And, as a member of the Legislature for three or four years, you became generally familiar with the municipal system of the State; did you not? A. Well, to some extent.

Q. Well, is it not a fact that the comptroller, auditor and city treasurer are in all of the cities of this State, except in the city of New York, distinct officers? A. I think they are; yes, sir.

Q. Now, is the auditor of this city distinct from the comptroller? A. No, sir.

Q. The auditor is appointed by the comptroller? A. The auditor is appointed by the comptroller and is in the comptroller's office.

Q. The auditor audits the account, and on which the comptroller draws the warrant? A. Yes, sir.

Q. And the auditor is a subordinate of the comptroller, appointed by the comptroller and subject to removal for cause? A. Yes, sir.

Q. And only for cause? A. Yes, sir.

Q. Now, how many auditors are there in this city?

Senator FASSETT.—What do mean by that?

Mr. IVINS.—I mean in the comptroller's office.

The WITNESS.—I think there is one auditor and two assistants.

Q. There is one auditor and two assistants? A. Yes, sir.

Q. Have you, as an ex-legislator, any suggestion to make with regard to the desirability of more certainly separating the auditing department from the drawing department; that is, the department which draws the warrants? A. I think it ought to be independent; I think it would be a greater check.

Senator FASSETT.—Would it not be a greater check than is now created by the city chamberlain's office?

Mr. IVINS.—That is an entirely different thing.

Q. The mayor has no power of audit? A. No, sir.

Q. The mayor is called upon to sign warrants? A. Yes, sir; but if he finds anything of a suspicious character, he does not sign it.

Q. How can he find out anything of a suspicious character? A. I do not know how he can find it out; he has sent to our department in reference to purchases, and we found it out for him.

Q. In the first place the account being audited, the warrant is drawn; that warrant is signed by the mayor and the comptroller and it is drawn on the city treasury? A. Yes, sir.

Q. And as drawn on the city treasury, the draft on the city treasury is honored by a subsequent draft of the chamberlain on the bank of deposit? A. Yes, sir.

Q. And in certain cases by the county signature of the chamberlain's draft on the bank of deposit by the comptroller? A. Yes, sir.

Q. These warrants once drawn by the comptroller go to the mayor's office? A. Yes, sir.

Q. And there received the signature of the mayor or his appointee? A. The secretary.

Q. Now, do you know those warrants are entered up in the mayor's office? A. I think a record of the amounts is kept, the names and the amounts.

Q. A record of the names, dates and amounts? A. Yes, sir.

Q. And that is all the record that is kept in the mayor's office? A. As far as I know; I think so.

Q. Now, there accompanies that warrant the audit? A. Yes, sir.

Q. Is it not a fact that all that can be done by the mayor is to see whether or not the sum drawn on the face of the warrant, the date, the name of the payee and other details of that kind, conform to the audit? A. Yes; that is all he can do.

Q. And if it conforms to the audit, he can go no further? A. No, sir.

Q. Is there any reason, in your judgment, why the duty should be imposed on the mayor of countersigning that warrant? A. I think

it is a great labor for the mayor to do it, and I do not think he has the opportunity to judge whether the warrant is proper or not, except that he accepts the audit.

Q. In your judgment, has not the Legislature taken exactly that stand when it has relieved him and let his clerk perform that duty?

A. Yes, sir.

Q. Do you know of any specific good or advantage which accrues to the city through compelling the clerk of the mayor to countersign a warrant drawn by the comptroller on an audit regularly made? A. No; except to save the mayor trouble or labor.

Q. Then why should the mayor do it? A. I don't know why he should do it.

Q. Is there any reason why he should do it? A. No, sir.

Q. Is it not a matter of fact that this is one of the worn out checks that it was supposed necessary to impose upon our different officers here after the discoveries of the frauds of 1870 and 1871; is not that really all there is of it? A. I could not tell you.

Senator FASSETT.—You are not familiar with the history?

The WITNESS.—No, sir.

Q. How would you suggest that the auditor should be secured, by appointment, by election, and once secured what limitation should there be on his term of office? A. I think he should be appointed by some authority outside of the comptroller and that his term of office should last during good behavior.

Q. You think the office of auditor should be indefinite during good behavior? A. I think so.

Q. Removable only for cause? A. Removable only for cause.

Q. After charges formally made and a trial had? A. Yes, sir.

By Senator FASSETT:

Q. Why? A. Because I think that the auditor ought to be outside of the department the head of which appoints him.

Q. Why should he be retained in office so long as you indicate; what is the advantage? A. Well, I think that a man becomes more familiar with his duties the longer that he is in office, and if he thinks that his tenure will last as long as he behaves himself he is very likely to behave himself.

By Mr. IVINS:

Q. Do you know what the auditor's duties are? A. Well, the auditor's duties, as I understand them, are, when he gets a bill to examine it carefully, examine the certificates of the inspectors and



others in the comptroller's office, and if he finds that everything is correct, why then he passes the bill.

Q. Have you ever taken any steps, not taking it for granted that the auditor does his work properly, to see whether he does it properly or not? A. No; I do not think we have; I have not.

Q. You never have? A. No, sir.

Q. Now is not the auditor's position really both the front and the back door to the treasury? A. Well, it is a very important position.

Q. Well, is it not really the one most important position in the city government so far as effects the expenditure of public moneys? A. Well, now we examine in our office every warrant and every voucher that has been paid; they pass through our office, every one of them.

Senator FASSETT.—Just a physical transit? A. That is all.

Q. You have examined during this last year, between January, 1889 and April 15, 1890, according to a statement handed to me by your colleague, 37,180 vouchers, and 37,180 warrants? A. Yes, sir.

Q. Now, those 37,180 vouchers, and those 37,180 warrants are one and the same thing; that is, the warrant comes with the voucher attached? A. Yes—well, they come at different periods; that is, sometimes the voucher will reach the office before the warrant, or sometimes the warrant will reach the office before the voucher.

Q. You make no examination until both are together? A. No, sir.

Q. Then you take the warrant and see whether or not it conforms with the voucher and its audit? A. Yes, sir.

Q. Well, that work has been done by the mayor? A. Yes, sir; it has been done by the auditor.

Q. It has been done by the auditor, it has been in the mayor's office, and the assumption is that has been done there, and it has been done in the chamberlain's office, and this is the third comparison that is made of the face of the audit and the face of the warrant? A. Yes, sir.

Q. Is there any further investigation of the audit? A. No; we do not go behind the auditor.

Q. You simply stand on the audit? A. Yes, sir.

Q. And the auditor has never been investigated? A. The auditor has never been investigated, so far as I know of.

Q. And no specific audit has been investigated? A. Oh, yes; we examined into some specific purchase of horses.

Q. Mr. Barker calls attention to the fact that the statute says you should make that examination? A. Yes, sir.

Q. Of what use is it after it is done? A. Well, I say we went behind the audit in the purchase of horses in the park department.

Q. Well, just describe how you did that; just tell us what was done

to go behind that audit? A. My colleague will tell you, because he took charge of that particular investigation himself; he went up and examined the horses.

Q. Is he an expert in horses, your colleague? A. I think he is.

Mr. IVINS.—We better, perhaps, save that for Mr. Barker.

By Senator FASSETT:

Q. But did not the examination of that audit begin before the voucher and warrant got into your office? A. Why, certainly; it was while it was at the mayor's office.

By Mr. IVINS:

Q. Then you did not make any such examination in the case after the moneys had actually been paid? A. No; they had not been paid.

Q. Now, you know that the auditor audits continually bills for supplies to the department of public works? A. Yes, sir.

Q. Man-hole tops? A. Yes.

Q. Pipes of all kinds and classes? A. Yes.

Q. Different kinds of machinery? A. Yes.

Q. You know that the contracts require that they should be pipe of a certain quality? A. Yes, sir.

Q. That the man-hole covers should be of certain quality? A. Yes, sir.

Q. Has anybody in your office ever gone behind the audit of the auditors with regard to any particular bill for supplies to the department of public works to see whether or not the supplies received comply to the specifications as advertised, or the contract as entered into? A. No, sir.

Q. Now, do you know whether there is any provision in the comptroller's office for the performance of that sort of work in aid to the auditor? A. I think they have an inspector assigned to that.

Q. Now, have you ever inspected the inspector? A. No, sir.

Q. Have you ever taken any steps to see whether or not the inspector, in assisting the auditor to make the audit, does his work properly? A. No, sir; I suppose we will when we make an examination of the comptroller's office.

Q. Now, is it any check on the auditor that you should at some time after the warrants have been drawn and actually paid, do over again, because the law tells you you should do it, what it is assumed has already been done three or four times; that is, compare the face of the audit with the face of the warrant—is that any check on any one or anybody in reality? A. I don't know as it is a check to find out whether fraud has been committed or not.

Q. Does that examination which you have made — A. No; I think the way that you point out, that before a bill is paid at all that we should go behind and examine the inspector, and, if possible, to get at some of the merchandise and find out whether it has been properly passed by the inspector and properly certified to; no doubt that is the proper way to do.

By Senator FASSETT:

Q. That is the proper way? A. That is the proper way.

By Mr. IVINS:

Q. You have full power to do it, have you not? A. We have full power.

Q. There is no reason why you should not do it if you had sufficient force of men and so minded? A. If we had sufficient force of men, we could do it.

Q. Have you ever called the attention of the mayor or the board of estimate and apportionment to these facts that we have brought out here; that is, that the police department must virtually go unaudited so far as the rest of the city government is concerned, and that no investigation has ever been made of the specific work done by the auditor; and asked for means to enable you to do that class of work, in either case? A. The comptroller of the city is one of the members of the board of apportionment; he knows that.

Senator FASSETT.— You can answer that question, yes or no. You never have?

The WITNESS.— No; I never have.

By Mr. IVINS:

Q. Well, do you perform the duties of your office more or less fully and more or less thoroughly in view of the fact that you know that other people know the defects in their own system? A. Well, no; I try to do the very best I can, and do the best I can; whenever I see an opportunity to protect the city, I do it, and help the city in any way, I do it.

Q. Don't you think we could, with perfect safety, recommend either the abolition of the mayor's counter-signature to the warrant, or, assuming that the mayor is still to countersign, recommend relieving you from the duty of making this comparison of 37,000 and odd vouchers with 37,000 and odd warrants per annum? A. Well, I am not prepared to give an opinion on that.

Q. Don't you think, as a commissioner of accounts, you ought to help us on that by giving us your opinion? A. I will, later on, if you wish it.

By Senator FASSETT:

Q. You had rather have some time to give a more careful and deliberate opinion? A. Yes; there has been a number of things brought up here that I would require to think over.

By Mr. IVINS:

Q. You say distinctly that you think that the police system of receipts and payments ought to be conformed with those of the rest of the city? A. I think so.

Q. Now, have you ever made any investigation of any of the divers sources of small revenues to the city, for the purpose of seeing whether those revenues were all coming in? A. No; except whatever departments or bureaus we have examined to find out if all the collections have reached the treasury.

Q. Well, have you taken any steps to find out whether the collections have been made? A. Yes, sir.

Q. What steps have you taken to find out whether any pawnbrokers have been licensed who have not paid a pawnbroker's fee; that is, whose pawnbroker's fee has not come into the city treasury? A. There was an examination made of all the pawnbrokers' licenses, and a thorough examination made of the office, I think, four months ago.

Q. Of what office; the license bureau of the mayor's office? A. The license bureau of the mayor's office.

Q. Well, let's take a very small matter; do you suppose it is possible for anyone to receive a dog license in the city and to pay his money for that license, but for that money not to get into the city treasury? A. Well, do I think it is possible; I don't think so; no.

Q. Do you suppose it is possible for any one to receive a vendor's license and to pay the money, but for that money not to get into the treasury? A. No, sir.

Q. Take the same case with regard to a license for a vehicle; is it possible for a man there to pay for his license, but the money not find its way into the treasury? A. I don't think so, from the number of licenses, the blank licenses; I think a record is kept of them; a record in full.

Q. Just describe how it is that this system is so perfect?

Senator FASSETT.—These are sources of income to the general fund, are they not?

Mr. IVINS.—These are sources of income, some to the sinking fund and some to the general fund.

Q. Describe what the system prevailing in the mayor's office license bureau is, which makes it impossible for anyone to receive a license,



and for the money paid for it not to get into the city treasury? A. Well, they are issued to the marshal, a certain number of licenses; the amount of money that he receives is placed upon a stub; the amount on that stub is entered into the cash-book.

Q. Who issues those blank licenses and stubs to the marshal? A. My impression is it is the comptroller.

Q. Now, at any time, if that be done, you could call on the marshal for the blank licenses then in his hands? A. Yes, sir.

Q. Then he would be called upon to account for the difference between the licenses then in his hands and those that he had received? A. Yes, sir.

Q. And the only way in which he could account for them would be by showing that a sum of money corresponding to the amount which ought to have been collected on the issue of those licenses, had been collected and paid into the city treasury; is not that so? A. Yes, sir.

Q. Now, has any such check ever been put on him? A. I think that is the check on him to-day.

Q. Is it impossible for the marshal to get licenses, blank licenses, other than those you speak of? A. I think it is.

Q. Now, what makes you think that the comptroller issues those licenses? A. Well, as I understand it, they are all consecutively numbered.

Q. They are not comptroller's licenses, are they? A. No.

Q. They do not run in the name of the comptroller, do they? A. No; I don't think so.

Q. They run in the name of the mayor, don't they? A. Yes, sir.

Q. As matter of fact they run in this way: "Hugh J. Grant, mayor," or "Abram S. Hewitt, mayor;" then follows the license, and at the foot of the license is the signature of so-and-so, marshal? A. Yes, sir.

Q. And the mayor does not sign them, does he? A. No; I think not.

Q. The mayor never sees them, does he, as matter of fact? A. Well, that I could not tell.

Q. Well, now, does the comptroller ever see them? A. I couldn't say that he does, personally.

Q. Who has charge in the comptroller's office of these blank licenses so numbered continuously? A. I don't know, sir.

Q. Who made this investigation into that bureau of which you speak? A. Mr. Hayes; possibly Mr. Kavanaugh, and I think that Commissioner Barker supervised them; was with them.

Q. Then we can ask Commissioner Barker about that; now, I want to carry you back to the police department for a minute; who is the auditor of the police department? A. I can not recall his name.

Q. They have an auditor, have they? A. I don't know whether the treasurer acts as auditor and treasurer; I can not recall.

Q. You do not know whether the treasurer acts as auditor as well as treasurer? A. I could not give you a definite answer in regard to that.

Q. Well, now let us take the case of supplies furnished to the police department—and they do receive a large amount of supplies, do they not? A. Yes, sir.

Q. Have you any idea what the supplies of the police department will aggregate in the course of a year? A. No, sir; I haven't the figures.

Q. If the police department buys and pays for supplies during the last half of January, their vouchers will not be examined until the beginning of the following January, will they? A. Well, they will be examined as soon as the commissioners of accounts go there; they may go in August or September; they may not go until October.

Q. They may not go for four or five or six months? A. No.

Q. As matter of fact, as a rule they do not go for four or five or six months? A. As a rule.

Q. Let us take a case then; let us suppose the commissioners of accounts go there in August; then for the first time the vouchers are gone over for the accounts, showing the payments for supplies in August of the previous year? A. Yes.

Q. In other words, a whole year has elapsed? A. Yes.

Q. And the supplies are used up? A. No; not—August of the year?

Q. Yes. A. Well, supposing they go the first of August and continue on until say the first of December, then the supplies for that December would not be examined until the next August.

Q. Then the supplies for that December would not be examined until the next August? A. Next August.

Q. And the supplies for the previous August would have been still in arrears for their examination? A. I think so; our chief bookkeeper can give you a lot of information.

Q. I am going to have him here this afternoon. A. Because he understands that thing better than I do; more thoroughly, because he has been at it for, I think, since 1884.

Q. I will ask you only two or more questions touching that; those supplies would be used up, however, would they not? A. Yes; for six months—

Q. Or the greater part of them? A. Yes.

Q. Their quarterly supplies or semi-annual supplies would be gone? A. Yes, sir.

Q. The means of checking off the honesty of the transaction then, would have actually disappeared? A. Well, it would be very difficult, if not impossible.

Q. There would be no way, so far as you know, of detecting dishonesty in any of those transactions on the part of the commissioners of accounts, would there, unless some one came forward and divulged the fact? A. No; not except they did; I don't see that they could; of course, so far as the quality of the feed for the horses, or anything of that kind, of course, after it was exhausted we would have nothing; we would have no way to find out by comparison; could not.

Q. Then, so far as those expenditures are concerned, the city is entirely at the mercy of the honesty, integrity and expert ability and knowledge of character and class of supplies of the one man in the police department, whoever he may be, who finally passes on these accounts before their payment? A. Yes; except that they have in addition, people who just act as an inspector does in the comptroller's office, but all under the control of the police department.

Q. Do you know anything about the methods of audit that apply in that department? A. I do not.

Q. Who audits the accounts of the dock department? A. Well, you mean the —

Q. All classes of payments that are made out of the proceeds of bonds which are sold to be passed to the credit of the dock department? A. The comptroller.

Q. The audit there is made in the same cases as in the others? A. Yes, sir.

Q. Is not that audit made by the board of sinking fund commissioners? A. As to expenses and all that?

Senator FASSETT.—Or any part of the three millions which they are authorized to raise and expend annually?

The WITNESS.—I think not.

Q. Do you know whether that audit is made by the board of sinking fund commissioners or by the auditors? A. Well, as I understand it, it is audited by the comptroller's office; all the expenses.

Q. It is audited by the comptroller's office? A. Yes, sir.

Q. Do you know whether the board of sinking fund commissioners are required by law, or whether they are not required by law, to audit the expenditures of the dock department? A. Well, they are to allow them —

Senator FASSETT.—Do you make a distinction between the administrative expenses and the expenditures?

Mr. IVINS.—I mean all expenditures whatever; expenditures out of the proceeds of bonds sold for the credit of that department.

Q. Do you know about that? A. Well, not—you have raised a doubt in my mind now, but my impression was that they were by the comptroller's audit.

Q. I ask, because, had you been certain I wanted to have your opinion as to possibilities of changes in the law, one way or the other, but you do not feel certain about it, so I won't press that question; don't you think, however, that as a commissioner of accounts, you ought to be certain about that? A. Well, I am very certain that all the vouchers are audited by the —

Q. By that you mean to say that they go through the comptroller's department? A. Through the comptroller's office and examined into by the auditor.

Q. Do you recollect of some difficulties that were once got into here by a Mr. Sweeney and a Mr. Hall and others? A. I believe I read something about it.

Q. Is it not a fact that those very difficulties grew out of the fact that they were auditing officers? A. I don't remember the history of the transactions.

Q. What is the name of your subordinate who examines these police department vouchers and who you say can be of benefit to us? A. Mr. Owen.

Q. What other things is Mr. Owen especially and particularly familiar with? A. Well, with the statements of the comptroller and the chamberlain; he makes up all those statements, quarterly and annual statements.

By Senator McNAUGHTON:

Q. Mr. Hollahan, who was mayor in 1884? A. Why, Mr. Grace.

Q. William R. Grace? A. Yes, sir.

Q. I see that year there were very important amendments —

Mr. IVINS.—No; no; no; let's don't have any mistake about that. Mr. Edson was mayor in 1884.

The WITNESS.—Edson.

By Senator McNAUGHTON:

Q. Well, whoever was mayor during that year there was a very important amendment to the section of the Consolidated Code in regard to the duties — A. You mean the law of 1884?

Q. In regard to your duties? A. Yes, sir.

Q. Who recommended that change in the law? A. I don't know, sir.

Mr. IVINS.—I can tell you if you desire to know. It was recommended formerly and officially by Mayor Edson.



By Senator McNAUGHTON:

Q. Who were the commissioners of accounts at that time? A. Mr. Sherman, I think, and that gentleman who died — Adams.

By Senator FASSETT:

Q. Andrews, was it? A. No; Adams, I think; he is dead now.

Mr. IVINS.—I have forgotten his name.

The WITNESS.—I think it was Adams.

By Senator McNAUGHTON:

Q. You don't have to make a report now to the board of estimate and apportionment, do you; you report to the mayor? A. To the mayor; we make all our reports to the mayor.

Q. You testified that you made your report to the board of estimate and apportionment? A. To the mayor, I made a mistake if I said to the board of estimate and apportionment.

Q. Now, that market investigation had the effect — the result was to call attention more sharply to the large arrearages of rent? A. Yes, sir.

Q. And as a result those rents were — A. They were collected right up and they are up to-day, as I understand it.

Q. Has any complaint been made to your bureau, department, as to any frauds in any department you have not investigated? A. No, sir.

Q. Was there any complaint made to your department in regard to frauds in the forage supplies, supplies of forage for the park department? A. Yes, sir; I think there were one or two letters received in regard to it.

Q. And those you investigated? A. Yes, sir; investigated that at once.

Q. Has any complaint been made to your department of any frauds in the bureau of correction, in connection with the board of charities and corrections? A. Well, no statement except there has been some statements in the newspapers about the administration of the lunatic asylum; I believe that is the only —

Q. And only in the newspapers? A. Yes, sir.

Q. Do you intend to investigate that? A. We do; yes, sir; we intend to investigate all the departments if we can reach them.

By Senator FASSETT:

Q. With or without complaints? A. With or without complaints.

By Senator McNAUGHTON:

Q. Your duties under chapter 516 of the Laws of 1884, are primarily to examine the receipts and disbursements of the office of the comptroller and the chamberlain, are they not? A. Yes, sir.

Q. And, incidentally, if you have a complaint entered or have reason to believe there is fraud or wrong, then to pursue the investigation further? A. Yes, sir; in regard to the departments.

Q. But if you were to assume that every voucher presented to you for examination was a fraudulent one, or that the property represented by it was not delivered, why, it would take a very extensive corps of assistants, would it not, to investigate that? A. It would, if we had information in regard to every voucher that came up, why that would be an impossibility.

Q. You assume that some of the departments are managed economically and well and that the vouchers are all straight? A. Well, we have got to assume that.

By Mr. IVINS:

Q. Does the law require you to assume that? A. No, sir.

By Senator FASSETT:

Q. Is that the proper attitude for an auditor? [No answer.]

By Mr. IVINS:

Q. The mayor is held responsible by the electorate of this city, is he not, for the administration of his own particular office, not only, but for the administration of the several departments? A. Yes, sir.

Q. And if one of these departments were to be badly administered, the mayor would be held responsible by the public? A. Well, sometimes unjustly.

Q. Well, I was going to say, he might be held responsible unjustly, might he not? A. Yes, sir.

Q. Still he would be held responsible? A. Well, not by people who understood the situation of affairs.

Q. Well, now, does not the law which makes you commissioners of accounts, gives you commissioners of accounts the power which you hold, really put the mayor in a position where he can and should be held responsible for any mal-administration whatever he or you, as his commissioners of accounts, have failed to discover? A. That is, providing that we had the appropriation large enough, and the force large enough; if we had both, and we failed to make an examination of all the departments, he would have a right to hold us responsible.

Q. Now, do you not suppose that it is possible to make such changes in the comptroller's office as to enable the joint staff of the comptroller's office and your office, working under some common command, to do all of that work, all the time, and thoroughly? A. To make us a bureau of the comptroller's office, do mean?

Q. Oh, no; not necessarily that. A. Appointed as we are now?

Q. You say that you must have more staff? A. Yes.

Q. Is it not possible that, although you did not have a larger staff, part of your staff, while under your charge, could be put to do certain of the work that is now done by part of the staff in the comptroller's office, and the ultimate gross cost to the city be no more than it is to-day? A. Well, that is, providing that we could use, as a part of our staff, some of the officers of the comptroller's office to-day; now supposing you merge them to-day; in addition to our force, if we needed an additional force, the comptroller would give us any men that we thought it was necessary?

Q. He would? A. Well, I say, is that what you mean?

Q. Yes; supposing he would? A. Well, suppose he would—

Q. Suppose you were put in a position where you could make a requisition on the comptroller for assistants out of his office, additional help out of his office, to work subject to your orders in the prosecution of some particular inquiry; don't you think that could be done? A. It would be a very good plan, if it could be done.

Q. Now, is it not because of the responsibility of the mayor to the public, and because of the fact that the mayor, being so responsible, must have power, that this law has been passed, authorizing him to appoint two commissioners of accounts, and giving you as great, as complete, and as full power as is held even by a legislative committee, for the purpose of prosecuting investigations? A. They give us the power; we have got all the power that we want, but we have not got all the money.

Q. Now, whose fault is it that you have not got the money? A. The board of estimates and apportionment.

Q. Have you ever made an application for moneys which they have refused to give you? A. We have, sir.

Q. How much have you applied for this year?

Senator FASSETT.—For next year.

The WITNESS.—Ten thousand additional.

Q. Making \$35,000? A. Thirty-five thousand dollars; yes, sir.

Q. Will \$35,000 enable you to do this work? A. I think it will.

Q. You think it will? A. I think so.

Q. Then if the work is not done, it is because you don't get the \$35,000? A. No; that ain't so at all; we can do more next year, because we will be better acquainted with the office; I will be better acquainted with my duties; I don't know about the other commissioner; probably he is already acquainted.

Q. He is a growing man too, is he not? A. Sir?

Q. He is a growing man too, however? A. Well, he is more familiar with the administration of affairs in the city than I am; I don't make any pretensions, but I am satisfied that next year, if I am a commissioner of accounts, I will be able to render better service to the city than I have this year.

Q. If you get your \$35,000, don't you think that the subordinates of your office ought to be scheduled in the civil service lists, and subjected to the most severe and critical examination as to their character and ability, and that in that way you should be the beneficiaries of the best expert ability that can be had for the money? A. I think that we ought to have the very best ability that we could get, but so far as taking at random any man into that office, I don't think it would be right to do it; I think we ought to be able to trust our men, and have confidence in them.

By Senator FASSETT:

Q. It is not a civil service office now? A. No, sir.

By Mr. IVINS:

Q. What do you mean by "taking at random;" is it taking a man who comes to you as the successful competitor among fifty book-keepers, for an appointment in your office, certified by the civil service board, a man taken at random? A. No, sir; he may be intelligent enough, but he may not be a reliable man at that.

Q. Well, that is a universal fault in human nature, is it not? A. I know it is.

Q. And you are just as likely to be fooled — A. We try to remove that as much as possible.

Q. And you are just as likely to be fooled as the board of civil service examiners are? A. Yes, indeed; but we try to get away from it if we can.

By Senator FASSETT:

Q. What steps do the board of civil service examiners take to determine a man's moral character? A. Don't take any.

Q. Don't they require a certificate that a man has good habits, a formal requisition? A. No difficulty getting signatures to it.

By Mr. IVINS:

Q. Is there any reason why, in the matter of the application of the civil service law, the head of a department should not be virtually given a veto power, on the recommendation of the civil service board; that is, to say "notwithstanding your recommendation of this man, I



don't believe him to be a man of good character, and my reasons are so and so, and, as I am responsible for the administration of my office, I am willing to take the man whom you recommend to me on score of capacity, but I am as good a judge of character as you are, and I veto your recommendation;" why would not that be a proper amendment to our whole civil service law system? A. Be an excellent one.

Q. Giving the reason for doing it, however? A. Yes, sir.

Q. Would not that be the means of actually attaining the responsibility at the head of the department, in one instance? A. That is it.

Q. And at the same time giving him the benefit of a competitive examination in the other instance? A. That is exactly right.

Q. Is not our whole civil service system in this city defective just because of that fact? A. I think so, and the civil service of the national government is defective — all the civil service is defective.

By Senator McNAUGHTON:

Q. Mr. Holahan, you referred to the interest which the city is alleged to have lost in the collection of assessments; that proceeds from the system adopted now, does it not, of allowing a taxpayer, a man who is assessed, the privilege of entering a complaint and appeal to the board of revision and examination? A. Yes, sir.

Q. And the delay is caused in that way? A. Well, I am not an expert in regard to that, but, of course, the law gives him certain privileges and, of course, he takes advantage of them.

Q. And if the case is peculiar it keeps before the board a long time? A. Drags along, of course, like everything else.

Q. But the city, in relation to the contractor, is required to pay at once, according to the contract? A. Yes, sir.

Q. That is where the loss of interest comes in; Mr. Holahan, since you were appointed you have devoted yourself assiduously, have you not, to the duties of your office? A. I have.

Q. Endeavored to perform them faithfully and well and discover any frauds and wrongs if there were any? A. Yes, sir.

Q. Now, a man may be an expert bookkeeper and still not very valuable in discovering or apprehending the methods of departments as to doing their work? A. Yes, sir.

Q. In other words, it requires something more than — A. Well, I will tell you; it helps a man, helps him very materially, too, that he should have a thorough knowledge of the books, but a man might have a thorough knowledge of the books and still not be able to find out some things — detective work is necessary.

Q. Exactly, and that applies particularly to the departments, and the mode of doing business? A. Yes, sir.

Q. If you were to have an additional corps of inspectors whose duty it should be to ascertain if goods delivered, or supplies purchased, or something of that kind, were actually delivered, and their fair value, it would add very largely to the expenses of your office, would it not?

A. Certainly, in salaries and expenses.

Q. Then would you not necessarily, following out that line, have to have another corps to see if they did their duty, this new board of inspectors?

Senator FASSETT.—And so on, *ad infinitum*?

The WITNESS.—Not as bad as that.

Q. Pretty nearly as bad, wouldn't it? A. Because, Senator, the men that we would appoint as inspectors we would believe that they were reliable men and wouldn't need to be watched by other men.

Q. Would the reason for that be any stronger than it would be in the case of the first appointee, that he had done wrong? A. Well, we don't have any man assigned particularly to that work, you know, for to watch the delivery of merchandise to the departments.

Q. But if you were, that would be a part of your duty if you were to follow it up, as suggested by Mr. Ivins, would it not? A. Yes, sir.

Mr. IVINS.—I haven't made the suggestion that that should be done in absolute strictness with regard to every transaction, but only as a test.

The WITNESS.—From time to time.

Mr. IVINS.—Or occasionally along from time to time.

The WITNESS.—As I understood it; yes, sir.

By Senator McNAUGHTON:

Q. If the list of the additional corps of inspectors were to find that in no department there was a wrong perpetrated or fraud perpetrated, and yet your pay-roll was increased by thousands upon thousands of dollars, then there would be fault found with you for having too many men in your employ, would there not? A. I suppose there would be, by the board of estimate and apportionment or by someone, if we increased our pay-roll.

Senator FASSETT.—Are you trying to excuse this department for its inefficiency?

Senator McNAUGHTON.—I am trying to show this: That if this department were to employ a large corps of inspectors to examine behind the vouchers and see that the property were delivered, and at a fair price, and all that sort of thing, and they should find the

vouchers all exactly correct and not one penny was wrong in them, then there would be fault found for employing so many men in his department.

Senator FASSETT.—He said they could do it for \$10,000.

Senator McNAUGHTON.—That does not refer to inspectors.

The WITNESS.—For instance, the assistant could be the inspector, too, except in some cases where we wanted expert testimony, as to the quality of any article of merchandise, of course, one of our assistants couldn't do that, and out of our contingent fund we would have to get an expert who could give proper information.

Q. And it was with that view that you made application for a larger amount this year? A. Yes, sir.

Q. And wherever a complaint has been made to your bureau or department of a wrong, or a hint of a wrong, you have followed it up by an investigation? A. We have followed it up, sir; wherever we got a letter; we never paid any attention to anonymous communications.

Q. Do you think the amendment of the law of 1884 was a wise amendment? A. I do not; I think the commissioners of accounts have too much power; I do not think they ought to have the power to send for papers and examine into men's accounts, and all that, outside private parties.

By Mr. IVINS:

Q. They have power, have they not, as it stands, to compel either of these Senators to produce their private check books? A. Yes, sir.

Q. And to explain actually what became of the money as shown to have been drawn on the stub of each particular check? A. Yes; it is too much power to give the commissioners of accounts.

Q. Merely in the hope that they may, by going through every item of his expenditure, finally strike an item which will prove their theory of the case? A. Yes, sir.

Q. They have that power; haven't they? A. They have that power; they oughtn't to have it.

Q. Is not that the most extraordinary power that exists outside of the power held by a legislative committee? A. They ought not to have it; so I have always contended; they don't want it either.

By Senator FASSETT:

Q. Then there is no lack of power in your department? A. We have got power enough; if we had as much money as we have power, why we could do very wonderful things.

Q. Be the most powerful department in the city; one of them? A. Yes, sir.

By Mr. IVINS:

Q. Don't you think you are the most powerful department in the city; as it is? A. I think so; yes, sir.

Q. Don't you think the chief magistrate, be he whomsoever he may, would regard you as the most powerful department in the city; are you not his right hand, and his very strong right hand? A. He has to rely a great deal on us.

By Senator FASSETT:

Q. Who appointed Mr. Melville? A. I think Mr. Sherman.

Q. Do you know at whose request he was appointed? A. Well, it was before I came in.

Q. Do you know at whose request he was appointed? A. It is my impression Raines; isn't it — there are two brothers.

Q. He has been in there since Sherman's time? A. Yes; since Sherman's time.

Recess until 2.30 o'clock.

#### AFTER RECESS.

EDWARD P. BARKER, having duly affirmed, testified as follows :

By Mr. IVINS:

Q. You are one of the commissioners of accounts of this city? A. Yes sir.

Q. How long have you been a commissioner of accounts? A. I was appointed on the 31st day of January, 1889.

Q. You were appointed by whom? A. Hugh J. Grant.

Q. What business were you in immediately prior to your appointment as commissioner of accounts? A. For several years I have been engaged in private affairs.

Q. You say private affairs? A. Yes; private business.

Q. Was that mercantile business? A. Yes sir.

Q. Prior to that time what was your occupation? A. I was secretary of the park department.

Q. When did you cease to be secretary of the park department? A. I don't remember just the date.

Q. About when? A. I think it is going on six years ago; I don't remember just the date; it was five or six years ago.

Q. How long had you been secretary of the park department? A. Oh, I had been secretary of the park department a number of years, some eight or nine years I think.



Q. And as such at that time you were thoroughly familiar with the park department work? A. I thought so.

Q. No complaint had ever been made about your manner of performing your duties as such secretary had there? A. I haven't heard of it.

Q. Did you resign from that office? A. I did.

Q. Who were commissioners of parks at the time of your resignation? A. John D. Crimmins, Henry R. Beekman, Matthew D. C. Borden and Jesse W. Powers.

Q. Mr. Borden is the only member of that board at present who was a member at the time you were secretary? A. Yes sir; he had just been recently appointed.

Q. Have you ever been an accountant? A. Before I went in the park department years ago I was brought up in a banking house, the banking house of Frost and Forrest.

Q. As an accountant there? A. I had had to do with accounts; I always had to do with accounts more or less even in the park department.

Q. Did you during the interval of your leaving the park department and your becoming commissioner of accounts, any work as a professional accountant? A. No, sir; I did not.

Q. Are you a professional accountant? A. No, sir; I am not.

Q. How did you come to be appointed commissioner of accounts—do you know? A. All I know about my appointment is that, that I was sent for by the Mayor; I received a note from him and I think it was some three or four days after I received the note before I went there to his office, and he asked me how I was situated, and whether I cared to take a position; I told him how I was situated and that I didn't think I was prepared to take any position and he urged me and he offered me this place; I told him if I was anxious to secure a political appointment that would be the last one in the city government that I would want; it was a very unpleasant one in my estimation, and I declined; he urged me, and I went away, and after two or three days I consulted with certain people, and they advised me to accept it; I accepted the office with the understanding that I was to be let out of it in a short time.

Q. Did you make any specific limitation of time within which you were to be let out? A. No; within a short time; a few months.

Q. Were you ever an applicant for the position of commissioner of parks? A. I never was, sir; nor for any other office.

Q. Did the mayor ask you if you if you were a professional accountant or not? A. No, sir; he did not.

Q. You didn't tell him that you were one? A. I did not.

Q. Did he ask you anything about your knowledge of accounts? A. He did not; he had known me for many years.

Q. At the time that you took that office did you understand the system of accounting that then prevailed in the city? A. Do you mean throughout the whole city?

Q. Yes. A. It would be a pretty hard thing for a man to say that he did that even now.

Q. You mean that it would be a pretty hard thing for you to say that even now. A. Yes.

Q. It would be a fair presumption that the general bookkeeper understands the system of accounts throughout the city? A. It might be his own particular accounts, but not of all the departments of the city government.

Q. Did you at that time understand the accounts of the city government as kept by the general bookkeeper? A. I did not.

Q. Do you now understand the accounts of the general bookkeeper? A. Do you mean in the finance department?

Q. Yes. A. I have looked over his accounts with him, and I have talked with him several times, and here only a few months ago the comptroller was talking to me about it, and he wanted to have them revised.

Q. What suggestions were made at that time either by the comptroller or by you with regard to the revision of the system of accounts? A. There was none made at that time; but they were to be looked at at a different date.

Q. What particular phases of the system of accounts did you discuss? A. None in particular.

Q. Just a general discussion as to the possibility or practicability of a revision? A. Yes, sir.

Q. And without taking any particular account as an illustration for its necessity? A. Yes, sir.

Q. Did you have more than one talk with the comptroller about that? A. I don't remember; I may have had; I remember one distinctly.

Q. How long did that consultation last? A. I couldn't say; I was in his office on some other business, and he commenced the conversation of his own accord.

Q. Then it came up rather casually than by premeditation? A. Yes, sir.

Q. Have you at any time ever made any suggestions to the comptroller with regard to the simplification or revision of accounts in that

office? A. No, sir; for the reason why, if for no other reason, you, of course, understand that by section 123 of the Consolidation Act the comptroller is the only person who has a right to prescribe the manner of keeping the accounts of the city; of course, we have no right to make any such direction.

Q. You have a right to make suggestions, haven't you? A. To the comptroller?

Q. Yes? A. We don't think that we have; any report that we make we have to make to the mayor.

Q. You certainly have a right to prescribe the changes? A. Oh, no, sir.

Q. That inheres in the comptroller alone? A. As I understand it.

Q. Don't you think that if the commissioners of accounts are to really exercise their functions fully, and completely, and thoroughly within the reasons which account for the existence of commissioners of accounts at all, that they should have the right to prescribe the general method of keeping accounts? A. In the absence of that, section 123, I would say yes.

Q. I assume, in the absence of that, section 123? A. Yes, sir.

Q. Because there is a direct conflict, is there not, between the power of the comptroller and the general theory of the office of commissioners of accounts? A. So it appears.

Q. That is one of the apparent incongruities of our system? A. So it appears.

Q. What was the first thing that you did after you became commissioner of accounts? A. When I went in the office of the commissioners of accounts there was an investigation in progress in relation to the allotment of stands in West Washington Market.

Q. And you took up that investigation where it had been left by your predecessor? A. Yes, sir.

Q. Mr. Sherman was your predecessor, was he not? A. Yes, sir.

Q. Do you know how long Mr. Sherman had been there? A. I do not; a number of years; I knew Mr. Sherman very well.

Q. Mr. Sherman was a professional accountant, wasn't he? A. I don't know.

Q. Have you ever examined or looked over any of that work that was done by Mr. Sherman during his term of office? A. I don't know that I can particularize anything; generally I have.

Q. Have you ever examined the accounts of the mayor's office? A. Personally?

Q. Yes? A. No; I have been over there when the accounts were examined.

Q. Have you ever personally made a study of the reports of receipts of money from the mayor's office? A. I can't say that I have; I have looked into them somewhat.

Q. The mayor's subordinates make weekly and quarterly reports, do they not, to the comptroller? A. I believe they make weekly reports, and they are consolidated into quarterly reports.

Q. Have you ever studied those weekly or quarterly reports? A. No, sir; I have not, but as I said before I have gone over there when they made the examination.

Q. Have you ever studied the system of accounting which prevails in the department of public works? A. I have looked into that; yes, sir.

Q. The water register is at the head of a bureau in the department of public works, is he not? A. Yes, sir.

Q. And as such he receives moneys which will average two millions and a half per annum, more or less, for water rates, does he not? A. Something in that neighborhood.

Q. Have you ever examined his system of keeping the accounts of those moneys when received and when paid over? A. The office made an examination of them some time since; Mr. Holahan had particular charge of it.

Q. Have you ever made an examination of the other accounts of the other bureaus in your office? A. Some of them; yes, sir; we have just gotten through with them.

Q. Which ones have you just gotten through with? All the bureaus where there are revenues derived.

Q. Which bureaus are they? A. The bureau of sewers, the water purveyor, the bureau of incumbrances — those are the ones I call to mind now.

Q. And you have personally looked into those matters so that you understand the system of accounting prevailing there? A. I said that Mr. Holahan had charge of that examination particularly; he devoted his time to that.

Q. Have you ever personally examined the method in which the police department keeps its accounts? A. The police department's accounts are different from any other department as you are aware.

Q. I will take them up in detail a minute later; but now I want to find out whether you have ever personally studied the system of bookkeeping that prevails in that department? A. As we keep it in our office; yes, sir.

Q. As you keep it in your office? A. Yes.



Q. But as they keep it in their office have you? A. I will explain if you desire.

Q. I will take that up in a minute and we will explain that in full?  
A. As we keep it in our office it must agree with theirs, or theirs must agree with ours.

Q. Have you ever examined the system of accounts which prevails in the corporation counsel's office? A. No, sir; we have made no examination of that.

Q. Have you ever examined the manner in which the board of assessors does its work for the purpose of showing whether or not moneys are lost because of the failure to confirm assessment lists; whether the fault be that of the board of assessors, the board of revision or the courts? A. We made no examination of that or of anything connected with the tax office.

Senator FASSETT.—I think we could get at this a little quicker, Mr. Ivins, if you would ask the witness to state just what departments he has gone into for the purpose of studying the system of accounts.

Mr. IVINS.—We can ask that.

Q. What departments have you the studied the system of accounting—I mean now apart from special investigations of particular offices? A. When we go into a department to investigate, then we study the system of accounting.

Q. You did that in the dock department? A. Yes.

Q. And in studying the system of accounting in the dock department, did you study the corresponding system of accounts in the comptroller's office? A. They are the same, other than the way that the money is drawn; that is the only department; that department and the police department are the two departments that differ from others.

Senator FASSETT.—Does the witness understand your question?

Mr. IVINS.—I think he does.

Q. You say they are the same? A. Yes, sir.

Q. That the accounts as kept in the finance department which correspond with the accounts of the dock department are identical—do we understand you right in that regard? A. I don't say they are identical; I say they must agree.

Q. They must agree in their results? A. Yes, sir.

Q. Do you know from your own examination whether the accounts of the dock department, as kept in the comptroller's office, are kept in such a way as to afford the best possible proofs of the accuracy or checks against the inaccuracy of the accounts of the dock department?

A. We have not made any extended examination of the finance department; the only examination we made there was in the bureau of city revenue, the collection of water rents, and such things.

Q. Have you ever made an examination of the books of the comptroller's office which show the operations of the sinking fund? A. Well, that is part and parcel of the system of bookkeeping; and as far as that is concerned, I am a novice, I think, on the sinking fund matters.

Q. You think the sinking fund is a little too many for you? A. Yes, sir; you and I agreed a little time ago on that.

Q. You told me a few months ago, didn't you, that you didn't think you understood the sinking fund? A. I did.

Q. Do you now understand it? A. I don't think I understand it very much better,

Q. Do you think you know of anybody that does? A. I know that you told me you didn't think hardly you did at that time.

By Senator FASSETT:

Q. Do you mean to say that you don't know of anybody that does understand the operations of the sinking fund? A. No; I don't say that.

By Mr. IVINS:

Q. Have you made any special study of the operations of the general fund? A. No; not specially; of course, I have looked over it and examined what items there were that went to make up that fund.

Q. Have you made a study of the general fund with sufficient thoroughness to enable you to say that you are satisfied that the general fund gets all of the revenues to which it is entitled? A. I couldn't state that definitely; no, sir.

Q. Now, the same thing with regard to the sinking fund? A. I couldn't state that.

Q. You have made such an examination as to enable you to say whether the revenues of all of those funds were all that they are entitled to? A. No, sir; not positively.

Q. You have made an examination of the system of accounts that prevails in the park department, have you? A. Yes, sir.

Q. Did you personally conduct such an examination? A. I was in there almost every day while the examination was being conducted.

Q. We then have your evidence to the effect that you have examined the general system of accounting of the dock department and of the park department? A. Yes, sir.

Q. Now, what other departments have you personally made a study of, so far as concerns the general system of accounting of such departments? A. I have not made a study of the system other than as we have investigated them.

Q. And when you say as you have investigated, you mean these general investigations conducted by your subordinates? A. Yes, sir.

Q. While those are in process, do you co-operate with your subordinates and go through with the work? A. I do.

Q. How do you do that — take the work that is now being done in the department of street cleaning, and give us an illustration? A. Our office hours are from 9 o'clock in the morning till 4 o'clock in the afternoon; I make it a rule to be in the office at 9 o'clock in the morning, and see that the employes are there, and I talk to them before they go out to their work, and then I do not go into the office where they are working during the day; I see them when they come in, in the afternoon and I converse with them in relation to it; as far as the street cleaning investigation is conducted, the office being in the same building with ours, and they having very limited accommodations, the books and vouchers were carried into our office and there is where it was conducted.

Q. Do you sit down with your accountant and assist him in the conduct of that? A. Sometimes I do; yes, sir; sometimes I go into the departments and work; I have done it.

Q. Now, we will revert to the police department; I will state the facts as I understand them, in the form of a question, and then you can say whether the facts are as I state them, yes or no; is it not the fact that the police department sends a duplicate set of its audits or vouchers to the comptroller's office; that the comptroller's office then turns those papers over to you; that then you virtually open a set of books for the police department, in which you enter up the items from these vouchers, and that, then at the end of the year you compare the accounts as they appear on your books with the accounts as they appear in the police department books — is that correct? A. Virtually.

Q. It is virtually correct? A. Yes, sir.

Q. Now, if the accounts of the police department's books correspond with the accounts of your books, they are regarded as correct? A. Yes, sir.

Q. Is any investigation made of the correctness of the audits before the entries are made in your books from the duplicate set of vouchers which have come to your office? A. We take these vouchers as we get them from the finance department; we have no right to go behind

the audit as it comes from the finance department, whether they audit or not; we must take the vouchers as we get them there, and we examine the vouchers, and if they are correct in form, why we have to pass them; whether the goods have been delivered or whether the prices are correct or not, we have no control over.

Q. If they are correct in form you then enter them in your books?  
A. Yes, sir.

Q. And then a careful comparison of your books with the police department books would show any formal errors, wouldn't it? A. Yes, sir.

Q. And if they are no formal errors then the whole matter is treated as correct? A. Yes, sir.

Q. And that is all the examination and checking of the accounts or books of the police department that you do, isn't it? A. That is all that we do; yes, sir.

Q. Now, as a matter of fact, that does not amount to any check on the police department at all does it, except so far as formal entries are concerned? A. That is all.

Q. That is all? A. That is all that we have.

Q. Then, as a matter of fact, the police department conducts its official business wholly without any external check? A. We have to take the vouchers as we get them from the finance department.

Q. And the result is that their business is done without any external check whatever? A. We have no power to go behind them.

Q. You don't audit? A. No.

Q. You don't examine the audits except as to formalities? A. No.

Q. The comptroller does not audit? A. I don't know about that.

Q. Does the auditor audit? A. His stamp is not on it.

Q. Whose audit stamp is on those vouchers? A. I think the chairman of the committee on supplies.

Q. Who is a member of the board? A. Yes, sir—and the bookkeeper.

Q. And the bookkeeper of the police department? A. Yes, sir.

By Senator FASSETT:

Q. A member of what board? A. The police board.

By Mr. IVINS:

Q. Is not that known as the auditing committee? A. I think it is chairman of the committee on supplies; I think that is it.

Q. How does he sign—simply so and so chairman? A. I think there is a stamp and then he signs his name.

Q. I wonder if Mr. Melville can go over and get one of those papers?  
A. Mr. Owen has charge of all those accounts and he is here.



Q. Then so far as your office is concerned you are only a check on the formal accuracy or inaccuracy of the entries in the books? A. Of their books; yes, sir.

Q. Now, describe to us the system of accounting which prevails in the dock department differentiating that department from the other departments in the city government? A. The dock department, they draw a requisition; they make up a schedule of bills and they attach them to a requisition drawn on the sinking fund, and that is forwarded with a communication signed by the president, and each member of the sinking fund signs that, and then that goes to the comptroller, and on that the audit of these bills is made.

Q. By whom is that audit made? A. Made by the auditor.

Q. In the first instance, isn't it? A. No, sir; he can't make this audit until after this form of requisition comes in, and then it goes through the regular form of audit.

Q. What part in the auditing the sinking fund commission performs? A. They sign this requisition, this authority for the comptroller to audit.

Q. Is not that signature of the sinking fund commissioners itself an audit? A. It is not considered as such; oh, no; that is considered as the authority.

Q. Do you know whether it is so considered by law? A. No; I have looked into that to ascertain what provision of law there was for this; and I can't find that there is any provision of law; but it is a regulation of the sinking fund commissioners.

Q. Has it not been held that the requisition of the sinking fund commissioners is assumed by law to be made only after the sinking fund commissioners themselves have examined and audited the bills for the payment of which they draw their requisition? I can't say that.

Q. Well, the requisition being drawn, the accounts are then audited? A. Yes, sir.

Q. So that it would appear on the face of it that the sinking fund commissioners actually drew a requisition for the payment of money before the accounts were audited? A. No; it is an authority for the auditing.

Q. Simply an authority to audit? A. Yes, sir; an authority, schedule, amounting to so and so, and that goes with the bills to the finance department.

Q. Is all dock department money paid out through the finance department? A. It is.

Q. In the first instance, it is? A. Yes, sir.

Q. Does the finance department pay any money over to anyone in the park department for disbursements by the dock department? A. I think not.

Q. Do you know what regulations have been prescribed by the finance department for the collection of dock revenues and the payment into the city treasury of such revenues when collected? A. I don't know that the finance department has prescribed any; the dock department prescribe their own rules and regulations, I believe.

Q. Are the park department accounts kept, so far as auditing and draft of warrant and payment are concerned, in the same way as the other general accounts in the city? A. The park department, they make up and audit each bill, or two or three bills from the same party are attached to a certificate, and those bills are all certified by the proper authorities in the department, and that certificate is signed by three commissioners, and then they make up what is called an audit sheet, and that audit sheet is presented to the board and spread at length upon the minutes, and they adopt a resolution approving it, and authorizing the secretary to transmit the bills to the finance department for payment; after they reach the finance department, they go through the regular form of audit.

Q. When did you begin your investigation of the park department? A. We commenced our investigation of the park department right after we got through with the clerical portion of the dock department investigation, before the open investigation commenced; that was suspended for the time being.

Q. What led to your investigation of the park department? A. It appears to me that Commissioner Gallup and Commissioner Hutchings; I had a talk with both of them in relation to it, and then we had some little correspondence, I think, with Commissioner Robb, and I think there was something in that in relation to it, and we said that we would conduct an investigation as soon as we had time; but it was months after that before we did it.

Q. Commissioner Gallup was the newest member of the board, wasn't he? A. Yes, sir.

Q. The appointee of Mayor Grant? A. I believe he was; yes, sir.

Q. Was any specific complaint made? A. No, sir.

Q. Were you formally invited by that department to make an investigation of it? A. I think the way the correspondence with Commissioner Robb came about, was this, it was in relation to some horses that had been purchased, and the bills had gone to the mayor's office, and there was some question raised in relation to it; I don't know why it was, but the mayor sent the bills to our office, and

told us to investigate them, and to see whether there was a larger price being paid for those horses than was paid by other departments, and to ascertain, if possible, whether the horses were sound; we had the horses examined by experts, and from that I believe there was some little feeling in the board apparently, evidenced, I believe, by the president and the treasurer.

Q. The fact is it was a board which was not always harmonious by any means? A. That is kind of characteristic of that board.

Q. It is characteristic of that board, the want of harmony? A. Yes, sir; it has been for years; and Mr. Robb made a communication to us in relation to the investigation; he said the board would be glad to have us conduct an investigation, and a thorough one if we did; and we replied to it, and then he came into the office, and we had a conversation in relation to the matter; I think that was the only time I ever had a conversation with Mr. Robb in my life.

Q. How long were you in the conduct of that investigation? A. We were in it for a long time, for the reason that sometimes we would work on it, and then we would be called off on other work, and we wouldn't do anything for two or three weeks, the same as we are on any work.

Q. Did you personally assist in the conduct of that investigation? A. I did.

Q. By going up there? A. Yes, sir; I live in Seventy-third street and on the west side, and while the clerks were investigating at the arsenal; I used to go to the park almost every morning on my way down; come around that way so as to see the clerks there.

Q. How many bureaus are there in that department? A. They have no bureaus; they are not allowed by law to have any.

Q. Who is Mr. Conkling? A. Mr. Conkling has charge of the animals.

Q. Does he keep a set of books? A. No.

Q. Who is Mr. Valkenburgh? A. He is the property clerk.

Q. Does he keep a set of books? A. The books are not very efficient.

Q. Does he keep what he calls a set of books? A. He may call them so.

Q. Did you examine his books? A. Yes, sir.

Q. Personally? A. No; not personally.

Q. Did you ever see his books? A. Oh, yes, sir; I knew what they were.

Q. You knew what they were from old times? A. Yes, sir.

Q. Did he keep those books at the time that you were secretary of the board; six years ago? A. No; his clerk kept them.

Q. Was he in the same position then as he is in now? A. Virtually.

Q. Who else in that department keeps what is, or is called a set of books? A. The bookkeeper at the main office; he keeps a set of books and the superintendent of the twenty-third and twenty-fourth wards; he keeps more of a memorandum set of books.

Q. Now, what were the principal matters of which you complained to the mayor as the result of your investigation? A. I don't know that we have made any complaints.

Q. You have simply made a statement of facts as you found them? A. That is all; we made no complaint; we made no charge.

Q. What particular points did you call to the attention of the mayor? A. Well, in the first place, we called his attention to the license fees, as I remember them now; instead of going into the city treasury as we thought they ought to have gone, they had been diverted to other uses.

Q. To other departmental uses? A. To other departmental uses; yes, sir; they had been expended in repairs and in the enlargement of buildings, which we didn't think was legal.

Q. You thought that ought to have been paid into the city treasury and then taken out again in regular form? A. Yes, sir; because there is only one way prescribed by law for the spending of city money.

Q. What else was there? A. Well, we looked into the horse account.

Q. Did you find anything peculiar about the horse account? A. Some of these accounts had never been examined before, and we went back to the date of the last examination and came on from that; and the clothing account.

Q. Did you look into the account of forage? A. Yes, sir; we examined all the contracts that were in existence in the department and amongst the rest of them came the forage contracts, and while examining those and the number of horses, we came across a communication from the property clerk to the board, stating that there were so many horses and it would cost so much to feed them, and it would require so much feed per diem, and we thought we would make a calculation, which we did, and we found that it didn't agree with his basis.

Q. It didn't agree with his basis? A. No, sir.

Q. But did you find anything to indicate that there had been irregularity of any kind in the supply of forage? A. It didn't agree with the receipts.



By Senator FASSETT:

Q. In what way didn't it agree? A. It didn't agree; the amounts that were received didn't agree.

By Mr. IVINS:

Q. Are you confident that that does not agree with the receipts? A. I didn't examine the receipts, personally; you can put Mr. Melville on the stand; he is the one who examined that, personally.

Q. Did you examine the shoeing account? A. No, sir; because they shoe their own horses.

Q. How many blacksmiths have they? A. I don't know.

Q. You didn't examine the account then at all as to shoeing? A. As to how much it cost?

Q. Yes. A. No, sir; some time ago I know we undertook to look into it and find out how much it cost the park department to maintain a horse, as we were looking into it in the other departments, but we didn't get any information; we couldn't get any information.

Q. How many horses are there in the park department? A. I can't tell you to-day; the report says how many there were on hand.

Q. Just turn to that and tell me how many horses there were on hand at that time?

Senator FASSETT.—Is that the report of their investigations?

Mr. IVINS.—Yes.

The WITNESS.—This is our office copy; a rough copy [producing report].

Question repeated. A. Ninety-two.

Q. Did those ninety-two horses belong to the city? A. Yes, sir.

Q. Isn't it a fact that seven or eight of those horses were simply there on trial at the time? A. I don't know.

Q. Did you examine the bills showing the purchase of these ninety-two horses? A. We asked for a statement and they gave us the statement of the number of horses that were on hand.

Q. And you took that statement simply? A. Yes, sir; and the number of horses that had died in the service; all of the data we got was from the stable man.

Q. Did you make an investigation of the price paid for each of these horses? A. I think we did.

Q. Then, how does it happen that you didn't find that a number of these horses were not owned by the city, and had not been paid for, but were there simply on trial? A. I never heard of such a thing before.

Q. If you were to hear that now would you take that as an indica-

tion that your investigation had not been thorough in that regard?

A. No I would want more evidence than that.

Q. If it developed to be the fact? A. You will have to prove it to me.

Q. Assume the fact? A. I am not assuming the fact.

By Senator FASSETT:

Q. If it were shown to be true would that be an evidence that you had been careless in the investigation? A. It would show that our report was not correct in relation to that matter.

Q. But you deny the fact? A. Yes, sir.

By Mr. IVINS:

Q. That is all right, I am assuming the fact, it would show that your examination had not been thorough? A. In that respect.

Q. Do you know that it is the custom of the horse railroads in this city to keep careful accounts of shoeing? A. I have understood so; I have never examined them.

Q. Apportioning the number of horse shoers to the horses and then making a monthly estimate of the cost of shoeing including the labor and shoes? A. I know it is in some of the other departments of the government.

Q. That is so in the police department? A. Yes, sir.

Q. And in the fire department? A. Yes, sir.

Q. And in the street cleaning department? A. Yes, sir.

Q. Did you take any steps toward enquiring whether a system could be established whereby it could be discovered what it cost to shoe the horses? A. I told you some time since that when we were getting up certain data as to what it cost to maintain horses, in the different departments we endeavored to get the information from the park department and we failed.

Q. Why did you fail? A. We asked for it and waited a long time; but we didn't succeed in getting it.

Q. Why didn't you go and take it? A. You would have to show us where it was to go and take it from.

Q. Did you go and try to find out where it was? A. No, sir, we couldn't find out such a thing.

Q. Do you mean to say now that it is impossible to find out from the books of that department what the cost of horse keep is? A. I don't know what they are doing now since we closed the investigation.

Q. Was it impossible at the time that investigation was made to find out from the books of that department what the cost of horse

keep was? A. It was apparently impossible at the time I asked for the information which I didn't get.

Q. Did you ask for the books of original entry? A. No.

Q. You didn't ask for the book of original entry? A. No; I sent a communication to the park department.

Q. Why didn't you go up there and take the books of original entry and do the work yourself, if you wanted to find out? A. We thought that we had a right to call on the park department for data.

Q. And when they refused to give it to you you stopped right there? A. They didn't refuse to give it, but they failed; they neglected to do it; and we waited such a long time that we wanted to use the other data, and we went on without it and used the comparison that we got from the street cleaning department and the fire department and the police department.

Q. And you have never got that yet? A. No.

Q. Was not the fact that they failed to give it to you sufficient to put you on your guard and lead to your going there? A. To prefer charges against them?

Q. No; but to lead to your insisting on having it. A. Well, we got along without it.

Q. But just to the extent to which you got along without it, your statement as to the cost of horse keep as affecting the horses in the city government at large is insufficient, isn't it? A. No, sir; I think not.

By Senator FASSETT:

Q. Incomplete? A. You might say incomplete but not insufficient.

By Mr. IVINS:

Q. Did you make any particular complaint about the failure of the department to reap as large revenues as it might from any source whatever? A. Well, really I can't tell everything that is in this report, to-day, because when that report was made it went out of my mind, and I haven't sat up nights reading it since, nor I have not thought of it, hardly.

Q. Is not it a fact that the park department, through the acquisition of new park lands, had, within the past year or two, come into the possession of a number of buildings in the city? A. Many.

Q. Many buildings? A. Yes, sir.

Q. Some in Pelham Bay park? A. Yes, sir.

Q. And some of them in Van Cortland park? A. Yes, sir.

Q. And some elsewhere? A. Yes, sir; in the different parks.

Q. How many such buildings were there? A. I don't know, I

believe there is an inventory or an assessed valuation, but I don't know exactly how many buildings there are.

Q. Did you make any complaint of the fact that those buildings were not yielding any revenue to the city? A. Yes, sir.

Q. Was that complaint contained in this report also? A. Yes, sir; I think it is contained in that.

Q. When was your attention first called to the fact that these buildings were not being leased for the benefit of the city treasury? A. I don't remember the date.

Q. Did you find out who was occupying those buildings? A. I think that Mr. Hutchings, who was president of the park department, and I were talking about it, and I made inquiry of him what they were doing, and he stated that many of them were unoccupied, that some were occupied and paying a small rental, and some were occupied and paying no rental at all.

Q. Some of them were desirable buildings weren't they? A. Very; yes, sir.

Q. Do you remember the building in Pelham Bay park which used to be occupied by the Country Club? A. That I am not conversant with; no.

Q. You don't know who occupies that building now, if it is occupied at all, do you? A. I do not.

Q. It has not been torn down, has it? A. No.

Q. Do you remember the so-called Delancy place? A. Only by reputation; I am not acquainted with them personally.

Q. Where was that? A. I don't know which one of the parks.

Q. Do you know whether it was in Pelham Bay park or Van Cortland park? A. I do not; no; I know that we had a list of those.

Q. Do you know whether any of these employes of the department were occupying those buildings, rent free? A. I heard so; I am not positive.

Q. Did you every prosecute any inquiries to find out? A. Not to a very great extent; no, sir; I understood that some of the policemen were living there; I think that there was a foreman living in one of them.

Q. Did you ever request to be permitted to occupy one of those houses? A. Never, neither directly or indirectly; I don't know why I should.

Q. Did you ever hear of any commissioner of accounts asking to be permitted to occupy one of those houses? A. I never did.

Q. Did you ever hear of any park commissioner asking to be permitted to occupy one of those houses? A. Never.



Q. Who is Mr. Conover? A. Mr. Conover is the superintendent of the parks.

Q. Of the new parks? A. Yes, sir.

Q. That is of these parks in which the houses are? Yes, sir.

Q. Is it in Mr. Conover's power to permit anyone to occupy one of those buildings? A. I am sure I do not know.

Q. Do you know whether or not, under the law, it is in his power, or the power of the board? A. It is a question with me whether even the board have a right to rent the buildings or not; I don't think that they have.

Q. Do you think that anybody could be permitted to occupy the buildings without a resolution of the board, or without the leave or consent of the board, in some form? A. They should not.

MR. IVINS.—Now I will excuse you for a few minutes, and recall you.

DENNIS F. MELVILLE, being duly sworn, testified as follows:

By MR. IVINS:

Q. What is your business? A. Bookkeeper.

Q. How long have you been a bookkeeper? A. For the last sixteen years, at least.

Q. You are one of the bookkeepers in the office of the commissioners of accounts? A. Yes, sir.

Q. How long have you been there? A. Five years this December coming.

Q. Did you take any part in the investigation of the park department? A. Yes, sir.

Q. What part of that investigation did you conduct? A. The examination of the books and accounts of the arsenal and the property clerk.

Q. That is, the books and accounts touching the keeping of the animals and the purchase of animals? A. All the property of the department.

Q. And all the property of the department is included in inventories either of Mr. Conkling or Mr. Van Valkenburg? A. No, sir; of Mr. Van Valkenburg; he is responsible for the whole of it.

Q. He is superior to Mr. Conkling, is he? A. Yes; that is not including the houses.

Q. Did you ever make any investigation regarding the houses which are also the property of the park department? A. I did; I went among them.

Q. You went among the houses? A. Yes, sir.

Q. Did you go to the houses at Pelham Bay park? A. I did; yes, sir.

Q. How many houses are there there? A. I don't exactly remember the number; I have got a statement of them in the office.

Q. There are several very large fine houses there; are there not? Yes, sir.

Q. The house that was occupied by the Country Club is a very large fine house; isn't it? A. Yes, sir.

Q. There is an equally large and finer house, isn't there, bordering on the Old Country Club property, right to the south? A. Yes, sir.

Q. Who occupies the Old Country Club House? A. Mr. Ogden, at present.

Q. At present? A. He did a few months ago.

Q. What Mr. Ogden? A. I don't know; I only know the name.

Q. Did Mr. Ogden get that through a lease from the park department? A. I couldn't say; he must have got it, I guess, through a resolution of the board.

Q. That is a very desirable summer place; isn't it? A. It is a beautiful place.

Q. A beautiful summer place? A. Yes, sir; a beautiful summer place.

Q. And it has been so regarded by some of the foremost people, especially in the city, for many years? A. Yes, sir.

Q. Have you any idea what a like place would rent for for the summer to a private lessee from a private lessor? A. I should think \$100 a month.

Q. Unfurnished? A. Unfurnished; that is, without any privileges; without the privileges of using the grounds at all.

Q. Have you ever made any investigation at all as to where Mr. Ogden got his right to occupy that house? A. No, sir.

Q. What is that large house to the south of it immediately adjoining called? A. There are two large ones; there is the one on Twin island and the one on Hunters island; they are large, much larger — that is, not much larger, but very fine houses.

Q. Do you know whether they were occupied this summer? A. The Hunters Island House was; yes, sir.

Q. Who occupied that? A. A gentleman by the name of Dubois, a French name.

Q. Do you know whether that was paid for? A. That was rented; I guess they rented it.

Q. They pay rental to the city? A. Yes, sir.

Q. Do you know whether Mr. Ogden paid rental to the city? A. Yes, sir; it is so reported.

Q. Have you ever examined the resolution authorizing him to occupy the premises? A. No, sir.

Q. Do you know the DeLancey place? A. Yes, sir.

Q. Where is that? A. The De Lancey place is right south of his place, closer to New Rochelle, below the entrance to Hunter's island.

Q. That is a very nice place, too, isn't it? A. It is a stone house; but it is a very unhealthy place to live in, I am told.

Q. It is a nice house, too, isn't it? A. A beautiful house.

Q. Is it so unhealthy that you would hate to see one of your friends live in it? A. I know I wouldn't live on account of the malaria; but it is a beautiful house.

Q. Do you know Mr. Conover? A. I do.

Q. How long have you known him? A. I have known him a year or more.

Q. He is now in charge of all these new parks? A. Yes, sir; so I understand.

Q. He used to be a park commissioner, didn't he? A. So I understand.

Q. This report shows that the buildings on lands lately taken from the new parks have been insured by the city upon a basis of value as follows: Bronx park, \$79,000; Clairmont park, \$40,000; Katonah park \$6,500; Pelham park, \$289,000; St. Mary's park, \$35,000, and Van Cortland park, \$50,000, being a total of \$500,000, as the insurance carried by the city on the buildings in those new parks.

Senator FASSETT.—There are some comments made below there.

Mr. IVINS.—I will take that up latter. Well, I might as well read it now. "Many of these buildings are standing empty. Others are occupied by parties who pay a small rent for the same and others are occupied by parties rent free. We learn that the subject of renting and leasing these buildings has received consideration but the power of the department to rent or lease is doubted."

Q. So far as you know the department has made no answer to any of the charges contained in this? A. No.

Q. They are pending and under consideration in the park department as you understand it? A. Yes, sir.

Q. Did you address a note to Mr. Conover at 5 P. M. on June 18, 1890, as follows: "Come down to the office to-morrow if possible. A certain commissioner wishes to secure the De Lancey or some other place. I will tell you his name when I see you. You know him. Don't forget as he told me to send for you. Come about 11½ or sooner if convenient. Yours, etc., D. F. Melville." A. Yes, sir.

Q. You did? A. Yes, sir.

Q. Who was the commissioner? A. I will tell you; I was up there one day with Commissioner Holahan and his wife and we were looking at the place.

Q. That is the commissioner of accounts who had just testified? A. Yes, sir; and Commissioner Holahan looking at the houses there said they were beautiful and very fine places to live in; so I wrote the note to Mr. Conover, he having charge of those houses, asking him to come down; that is all there is to it; he didn't come down though.

Q. Did you on the 23d of June, 1890, send him a letter as follows: "Friend Conover: Received your telegram this morning, being two days after your forwarding it. I suppose it came in late on Saturday after office hours. The party I wrote you about will not need a house now, having changed his mind, something having soured him against living in the park?" A. Yes, sir.

Q. You wrote that? A. Yes, sir.

Q. Now, tell us the whole story about that business? A. That is what I told you; the commissioner and I were up there one day with his wife; we had dinner there one afternoon, and he was admiring the park and the house, and he said: "It is a beautiful place to live," and I said: "Certainly," like that.

Q. You never talked with Mr. Conover about it at all? A. Since that I did; I only just said to him then: "That party does not want to have the house at all."

Q. Was not the first communication sent before any complaint had been made by any one that these houses were not yielding a revenue, and was not the second communication sent after the complaints had been made that those houses were not yielding a revenue? A. No, sir; I will tell you; Commissioner Holahan told me that he wouldn't live there; there was so much fuss about the place.

Q. There was so much fuss about it? A. The next day he told me there was so much fuss about it that he wouldn't live there.

Q. In the interval between your first letter to Conover and your second letter to Conover had not the attention of the people been called to the use of those houses, rent free, by certain newspapers in the city? A. I think it was sometime afterwards if I remember.

Q. Was not it between those two dates? A. I couldn't be positive; it might have been.

Q. Are you sure that that was not what soured him against living in the park? A. It might have been.

By Senator McNAUGHTON:

Q. Commissioner Holahan said nothing to you about getting the house rent free, did he? A. No, sir.

Q. There was no talk about it? A. No, sir; everybody was trying to rent houses up there.



Q. And nothing in his refusal to take it led you to believe that it was due to the report in the newspapers? A. Oh, no.

By Mr. IVINS:

Q. Did I understand you to say that Mr. Holahan didn't tell you to do anything about it? A. He didn't tell me to do anything about it.

Q. He didn't tell you at all? A. No, sir.

Q. This was spontaneous on your part then? A. Yes, sir; a great many persons were coming up into the park to rent houses there.

Q. If he said nothing to you it was an affair that affected himself and his wife and family? A. Yes, sir.

Q. And you volunteered quite spontaneously to write to Mr. Conover that a certain commissioner wished to secure the De Lancey or some other place—you did that without authority? A. Without authority?

Q. How did you know that he wished to secure the De Lancey place? A. Because he admired it so much when we were up there.

Q. And you took that as equivalent to a wish? A. Yes.

Q. But if that word wish is to be taken as meaning that he expressed such a wish to you it is falsehood isn't it? A. He didn't say that he wanted to rent a house there; he said he would like to live there; that it was a nice place.

By Senator FASSETT:

Q. You mean by that that you guessed he wished? A. Yes, sir.

Q. And afterwards when you wrote that he had soured on the park and didn't want to live there, you mean that you guessed he had soured? A. Yes, sir.

By Mr. IVINS:

Q. Have you ever asked Mr. Conover to give you those letters back? A. Never.

Q. Have you ever tried directly or indirectly to get those letters back? A. No, sir; never.

Q. You are confident of it? A. Positive.

By Senator FASSETT:

Q. Are you a pretty good guesser? A. I don't know; that was nothing to be ashamed of; I would like to have all my friends living in the park as long as they paid rent.

Q. There is no objection to a commissioner getting a house there if he was willing to pay as much rent as anybody else would pay? A. That is what I thought; the house was empty.

Q. And there was no objection to his saying to you that he would like to live there? A. No.

By Mr. IVINS:

Q. What did you mean by writing to Mr. Conover: "Don't forget as he told me to send for you?" A. Is that in the same letter; I don't remember it at all?

Q. That is in the letter: "Come down to the office to-morrow if possible; a certain commissioner wishes to secure the De Lancey or some other place; I will tell you his name when I see you; you know him; don't forget as he told me to send for you?" A. I wrote a falsehood; he didn't tell me to send for him.

Q. You wrote a falsehood? A. Yes, sir; he didn't tell me to send for him; that is positive; I thought I might get him down quicker.

Q. Now did you know a Mr. Raines? A. Yes, sir.

Q. Who is Mr. Raines? A. There are three or four Raines.

Q. Who are they? A. George W. Raines, and Tom Raines.

Q. Who is George W. Raines? A. Ex-Senator Raines, a lawyer in Washington.

Q. Who is Tom Raines? A. His brother, a lawyer also.

Q. Who is John Raines? A. I didn't mention his name.

Q. There is a John Raines, isn't there? A. Yes, sir.

Q. Where does he live? A. He lives in Washington at present.

Q. Was there a Raines living in New York on June twenty-third, 1890? A. He was here on a visit; W. G. Raines.

Q. In this same letter in which you wrote to friend Conover "that the party I wrote about will not need a house now, having changed his mind, something having soured him against living in the park;" didn't you go on and write: "Raines writes me requesting that I secure the cottage he was looking at?" A. Yes, sir.

Q. "He means the second one from Mat Culver's place, which is now empty; will it be all right; I expect him from Washington in a few days; drop in or send me word when I can meet you any time this week;" what Raines was that? A. W. G. Raines; he was moving his family on from Washington.

Q. And he wanted a place? A. Yes, sir; and he was willing to pay rent.

Q. Did you and he talk anything about the payment of rent? A. Yes, sir; he said he was willing to pay forty dollars a month for the place — Raines was.

Q. Did you ever convey that to the park department? A. No, sir; to Mr. Conover only.

Q. Did Mr. Conover ever convey that to the park department? A. I don't know.

Q. Did the park department ever consider Mr. Raines' application? A. I don't know; it was a verbal application.

Q. Did Mr. Raines occupy the cottage? A. No; he just saw the cottage; it was empty at the time.

Q. Are you prepared to say now that you were not at that time trying to secure that cottage for Mr. Raines rent free for that season? A. I am positive of it; he wouldn't accept it; Mr. Raines wouldn't accept it.

Q. Are you sure that forty dollars a month is all that cottage is worth? A. Well, it may be worth more, but the people around there are not paying any more; this is about as big a rent as any are paying.

Q. What people around — do you mean the other people who are occupying park cottages? A. Park cottages; they are paying twenty-five and thirty dollars per month.

Q. If those had been private cottages instead of park cottages, wouldn't they have brought very much more? A. Yes, sir; but they were in bad repair; many of them had to be painted, and plastering had to be done in those houses, and they were not worth much.

By Senator FASSETT:

Q. Whatever the applications were, the park department did not rent them? A. No, sir; Mr. Conover has charge of that business, or it was left to him.

By Mr. IVINS:

Q. Did you feel that you were justified, while a subordinate of the commissioners of accounts making an investigation of the manner in which Mr. Conover was conducting that business, in entering into negotiations with him for any of these houses whatever? A. He had full charge; I saw no impropriety in it at all; it was an honest transaction.

Q. You were actually sitting in judgment on the way in which he was doing his work, weren't you? A. No, sir; the houses were empty there, and I thought it would be better for the houses to be rented.

Q. As commissioner of accounts you were sitting in judgment on the manner in which he was doing his work, weren't you? A. Yes.

Q. And you were conducting that investigation, weren't you? A. Yes, sir.

Q. And although so conducting that investigation, you saw no

impropriety whatever in negotiating with him for one of those houses?

A. No.

Q. Either for a commissioner of accounts or for a gentleman in Washington? A. No, sir.

By Senator McNAUGHTON:

Q. Did you negotiate with Mr. Conover for that house, or simply call his attention to the fact that somebody wanted it? A. I just called his attention to it.

Q. Then you didn't negotiate with him. A. You might call it negotiating.

Q. You simply called his attention to the fact that somebody wanted to rent the house? A. That was all.

Q. Did Mr. Raines intimate anything to you to any extent, or in any manner, that he desired to occupy that house rent free? A. No, sir.

Q. The mere fact that a person applies to another party to rent a house does not imply that he wants to occupy it rent free, does it? A. No.

Q. But the presumption is that he expects to pay rent? A. Yes, sir.

By Senator FASSETT:

Q. I understand the witness to say that Mr. Raines wouldn't have it rent free, and offered to pay forty dollars a month? A. Yes, sir.

Q. Which was more than others were paying? A. Yes, sir; those houses were in bad repair; you couldn't ask much rent for those houses.

By Mr. IVINS:

Q. You don't think that the city, under those circumstances, was a very desirable landlord? A. No, sir; I shouldn't think so.

By Senator McNAUGHTON:

Q. Could the park commissioners have rented that house or those houses for any definite length of time? A. No.

By Mr. IVINS:

Q. Didn't they rent them for the summer season? A. From month to month only.

By Senator McNAUGHTON:

Q. That fact has a tendency to reduce the value of the rental? A. Yes, sir.



Q. Your representing to Mr. Conover that Mr. Raines or some commissioner wanted to rent a house, does not constitute negotiation for the house by you? A. No, sir; someone had to be in the houses there.

Q. You did the errand as you would for any body else; for Mr. Raines and for the commissioner? A. Certainly.

Q. You didn't do it in your official capacity, at all? A. No, sir.

Q. But simply as a friendly act? A. That is all.

Mr. IVINS.—That is all for the present.

EDWARD P. BARKER, recalled.

By Mr. IVINS:

Q. What did you find, Mr. Barker, was the average cost of keeping horses in those departments which gave you the data? A. I can not remember it now; it is a long time ago.

Q. Do you remember whether it was twenty five cents a day or fifty cents? A. Oh, I could not remember; I could not carry the figures in my mind.

Q. Do you know what the average cost of keeping a horse on a city railroad at the present price of supplies is? A. I do not, sir.

Q. Have you any idea whatever? A. I have not.

Q. Well, were you so fully equipped to make comparisons that after you got those figures you could tell whether they compared favorably with private enterprises? A. I was only doing it in the city government, just to see what the different rates were throughout the city government.

Q. Did it suggest itself to you after you got that rate to try to compare it with the rates paid by horse-car people? A. No, sir; it did not, because I did not care to go outside of the city government.

Q. Would not that be a proper means of checking off the economy of the department? A. I had heard that the railroads cost much less.

Q. Having heard that the railroads cost much less, and having made this examination, did you go any further to find out how it compared? A. No; I just confined myself to the city government.

Q. After you got it what good did it do you? A. I do not know that it amounted to very much.

Q. Did it take a very long while to do it? A. It did not.

Q. Now, Mr. Barker, what suggestions have you to make, if any, about the proper way of checking of the accounts of the police department? A. Well, I do not know that I am prepared now to make any suggestions; it does appear to me though, on general principles, that all moneys should be paid in in some way.

Q. Do you believe that any good purpose is subserved by requiring that you should check off the warrants and the audits after payment has been made, notwithstanding the fact that they have passed through the hands of the comptroller, the hands of the mayor and the hands of the chamberlain, or do you not think that if the law was changed so that duty was not imposed upon you, you could save a great deal of valuable time? A. Perhaps so.

Q. How many clerks have you got all told now? A. I think from the chief clerk down to messenger, there are eleven.

Q. Eleven? A. I think so.

Q. Now, suppose those eleven clerks, your fellow commissioner and yourself making thirteen, were to so arrange your work that some one clerk should at all times have imposed upon him the duty of looking after the accounts of some particular department, could you not in that way keep the accounts of all the departments under continuous surveillance? A. I might express my views in relation to the organization of the office, which perhaps might explain it to you, if you desire?

Q. What did you say? A. I say I might explain my views in relation to the organization of the office?

Q. I wish you would? A. In the first place you know the commissioners of accounts are appointed by the mayor and without a tenure, and are removable at pleasure; they go into office and get what appropriation they can; now the commissioners of accounts are only commissioners in name, they are not the head of a department nor are they virtually the head of a bureau; I do not know what you could classify them as in the city government; they are almost like official mugwumps.

Q. They are neither fish, flesh, fowl nor good red herring? A. No, sir; but I know they are very unpopular; I can say that; if the commissioners of accounts were recognized by the charter in a different way from what they are, and they had a tenure of office and they would not be subordinate to the immediate appointive power to remove, the same as the other commissioners are, and had a tenure of five years, they would be enabled when they went into the office to lay out a plan of work and to get around; we get on to a certain piece of work and sometimes we are called off, and we find we have to stop this department and go into another, and to say the least, it is very unsatisfactory; I think that would be a very decided improvement.

Q. Do you think that commissioners of accounts ought to be vested with the power that is now vested in them of calling witnesses and

compelling the disclosure of most intimate facts in the private life of a man who has ever seen fit to do business with the city?

Senator McNAUGHTON.—Where do they get that power from?

Mr. IVINS.—They get it under the statute of 1884; it has been so considered by the corporation counsel, and it has been so applied in several investigations.

The WITNESS.—And decided by the courts.

Mr. IVINS.—And a person refusing to come forward and answer, and exhibit his check books or stubs, is held in contempt, as he would be if he refused to obey the summons of a court?

Senator McNAUGHTON.—A private individual?

Mr. IVINS.—A private individual.

Senator McNAUGHTON.—It seems it is a pretty broad construction.

The WITNESS.—It is a very great power, and in the hands of unprincipled men it would be very dangerous.

Senator McNAUGHTON.—Do you think it was the intention of the party who framed that act to have it go as far as that?

The WITNESS.—I do not know what the intention was; that is the fair construction.

Senator FASSETT.—“They shall have full power to compel the attendance of witness, administer oaths, examine such persons as they may deem necessary.”

Senator McNAUGHTON.—But not power to send for books and papers.

Mr. IVINS.—It has been so held by the courts as incident to this power.

The WITNESS.—It has been held by the courts. Under the decision of the courts under that law there are people now who are beyond the jurisdiction of the court in both the market and the dock investigations.

Q. There was one man named O'Byrne, was there not? A. Yes, sir.

Q. O'Byrne, at the time of that investigation, was not an employe of the city, was he? A. No, sir.

Q. He was a lawyer? A. Yes, sir.

Q. Conducting a regular legal practice here? A. Yes, sir.

Q. Or an irregular one; and complaint had been made that he had been an intermediary in a certain transaction? A. Yes, sir; it was intimated so.

Q. It was intimated that he was an intermediary? A. Yes, sir.

Q. And for the purpose of running the thing down, you tried to call him, did you not? A. He was subpoenaed, and he appeared.

Q. He was subpoenaed and he appeared? A. Yes, sir.

Q. He subsequently disappeared, did he? A. He did; he declined when a question was asked of him as to what disposition was made of

this \$13,000 that was entrusted to him in relation to certain legislation by the oystermen, he declined to state, and then there was an application made to the court to compel him to answer.

Q. And he evaded the process of that warrant which issued out of the court on your application? A. Yes, sir.

Q. Now for the purpose of illustrating this police department business, I will take one bill dated New York, September 5, 1890. The Police Department of the City of New York. Treasurer's Office. To Martin B. Brown, Dr. Stamped with a hand stamp "Duplicate." They keep the original? A. These duplicates are filed in the finance department.

Q. Continuing it reads: "958 E 2, 1 record book, etc., \$13.50; 59 E 2, 1,000 blanks, etc., \$17.50," footing \$31.00; at the bottom of the bill is written "Order 5962. Extensions and footings correct. Ed. C. Gay, clerk." At the foot of the bill is a stub, "\$31. New York, September 24, 1890. Received from John McClave, Treasurer of the Police Department of the City of New York, the sum of \$31, being payment in full for bill above rendered. Check No. 16,733. Martin B. Brown, per Alfred." On the back of it is "Voucher No. Martin B. Brown. \$31. Duplicate. I hereby signify that the articles enumerated in this bill are necessary for the lawful uses and purposes of the police department and approve of the charges therein made. John R. Voorhis, Chairman of the Committee on Repairs and Supplies, September 16, 1890. Police Department, New York, September 16, 1890, ordered to be paid by the Board." What signature is that; do you know? A. William F. Kip.

Q. "William F. Kip, clerk;" now, Mr. Commissioner, is there any audit at all on that bill anywhere? A. That is the only audit there is.

Q. Is that an audit? A. Well, that is the way we would get the vouchers.

Q. That is all the audit, assuming that to be an audit, that there is? A. That is all; we get it just that way; and we get the pay-rolls that are audited just about the same way.

Q. In the rolls for supplies, is there any certification that the articles have been received, and that the prices charged are fair? A. I think there is some such certificate as that.

Q. That does not accompany these certificates to you? A. There it is [referring to paper].

Q. He says: "I hereby certify that the articles enumerated in this bill are necessary for the lawful uses and purposes of the police department, and approve of the charges therein made;" now, the usual audit is that the goods have been received, are in conformity



with the contract, and that the prices charged are fair and proper prices? A. That is all we have.

Q. There is nothing of that kind in the case of the police department? A. That is all we get.

Senator McNAUGHTON.—That voucher is examined by the auditing bureau or the comptroller's department, is it not? That is sent there? After Mr. Voohis certifies to it, then it is sent to the auditing bureau?

The WITNESS.—No, sir; it is sent to the finance department, and filed there, and that is the only action that is taken. Then we get those. We send down once a month and have them all taken up to our office, all these vouchers and pay-rolls, and we examine every one of them, and see whether they are correct in form, and whether the extensions are right, and from that we copy our set of books.

Mr. IVINS.—That is all for to-day.

Adjourned to to-morrow, October twenty-fourth, at 11 A. M.

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NEW YORK, *October 24, 1890.*

Present—Senators Fassett, McNaughton, Birkett and Deane.

JOHN R. FELLOWS, recalled:

By Mr. IVINS:

Q. Colonel, how long have you been district attorney of New York? A. Since the 1st of January, 1887.

Q. Prior to that time you had been assistant district attorney?

A. Yes, sir; for six years, beginning with Mr. McKeon and terminating with Mr. Martine.

Q. So that now you have been in that office continuously for upwards of nine years as assistant district attorney, and district attorney? A. At one time, nine years continuously.

Q. Prior to that time you were in the office, were you not? A. Yes, sir; for something more than three years.

Q. During whose term was that? A. During Judge Garvin's full term and part of the term for which he was appointed; only two months however of that.

Q. Have you filed your provisional estimate for the coming year? A. Yes, sir.

Q. What does that call for in the aggregate? A. I really can not tell you without reference to the figures, Mr. Ivins.

Q. Not in round figures, can't you tell me? A. No, sir; it is about the same—I will have it here in a few moments; it is about the same as last year.

Q. It is about the same as last year? A. Yes, sir.

Q. Do you know what the appropriations for this current year were? A. About \$190,000; that is my recollection.

Q. Can you tell us how the appropriations for the current year compare with the appropriations of the last year of Mr. Martine's term? A. They are increased.

Q. How largely are they increased? A. Well, they are in the aggregate—I must qualify that; they are in the aggregate smaller, because under Judge Martine and under one year of my administration \$25,000 was appropriated for the contingent expenses of the office; since that time the appropriation has been diminished by \$10,000 for contingencies; the salary list has been increased.

Q. What appropriation have you asked for contingencies for the coming year? A. Fifteen thousand dollars.

Q. How are those contingencies expended; for what, generally speaking, are they expended, and how are the expenditures audited?

A. The expenditures are largely for the expenses of bringing criminals from other jurisdictions, either from abroad or from the States, pay-expenses of special investigations of detectives from time to time, paying, in some instances, the expenses of those who are detained in the house of detention as witnesses, providing them with suitable clothing, paying the expenses of expert witnesses, mostly in insanity cases, in the investigation of such cases; and they are audited by the comptroller.

Q. Are they, before audited by the comptroller, accompanied by the bills and receipts of the parties to whom the money is paid? A. Yes, sir.

Q. It is not in any sense in the nature of a secret service, payments for which are made without voucher, is it? A. Well, in some instances, but in very few, Mr. Ivins; the particular items, the particular character of the work done is not disclosed, because to do it would be to defeat the service itself; that, however, is rare; we take the investigations of detectives in some instances, and they state that they have devoted so much time, that they paid out so much money for traveling expenses, or for meals or otherwise.

Q. Who in your office has charge of the retention of the persons to whom this money is paid out of the contingent fund? A. Of what?

Q. Of the retaining of persons; the retainer? A. I do not understand you.

Q. Which one of your subordinates employ the people to whom this money in the contingent fund is paid? A. No one of my subordinates.

Q. Do you do that yourself? A. Yes, sir; I frequently do it upon

the recommendation of my subordinates who have the special matter in charge.

Q. Any one of your subordinates may recommend them? A. Certainly.

Q. That is, the assistant in charge of a particular case may make the recommendation? A. Yes.

Q. But the act is finally your act? A. Yes.

Q. Well, I assumed that, but I did not know but what you had some one personally in the office into whose hands all this sort of material ultimately came? A. No; the accounts are all made up by my private secretary.

Q. Does he keep a regular set of books of account in the office? A. He does.

Q. That set of books of account in the office shows the payments for salaries, for instance, to yourself and subordinates? A. Yes, sir; we have a pay-roll.

Q. You keep the regular pay-roll there? A. Yes, sir.

Q. Which should correspond with the pay-rolls as sent in, correspond with the entries in the comptroller's books? A. The pay-roll on which the comptroller issues his warrants is our pay-roll made out each month and sent to him.

Q. Do you open a set of books at the beginning of each year, crediting your department with the appropriation and then making charges against it to the end of the year? A. My private secretary keeps that account.

Q. Who is your private secretary? A. Mr. David Anderson, now.

Q. Who was prior to his term? A. Mr. William N. Penny.

Q. Is Mr. Penny still in the office? A. No, sir; Mr. Penny is now clerk of one of the courts; clerk of Judge Fitzgerald's court.

Q. Now, will you give us the names of your assistants? A. Mr. John W. Goff, McKenzie Semple, Gunning S. Bedford, Benjamin Dospassos, Mr. Parker, Mr. Davis, Vernon M. Davis.

Q. Are they all the assistants? A. Yes, sir; six.

Q. Were the six assistants in that office during the term of Mr. Martine? A. Some of them were.

Q. I say, were there six in number? A. Yes, sir.

Q. How many assistants were there employed in the office during the term of Mr. McKeon? A. I think there were five, but I won't be sure, Mr. Ivins; I don't remember at what precise period the number of assistants were increased.

Q. These assistants were paid \$7,500 per annum each? A. Yes, sir.

Q. You have a number of assistants known as deputy assistants have you not? A. Yes, sir.

Q. There are John D. Lindsey, William Travers Jerome, A. H. Dawson, Henry D. McDonough, Henry Hartman and Edward Grossy? A. Yes, sir.

Q. I find by this list, which has been sent me from your office, that Mr. Lindsey receives \$4,500, Jerome and Dawson receive \$4,000 each, McDonough, Hartman and Grossy receive \$3,500 each? A. Yes, sir.

Q. You then have, I see here, Charles J. McGee as deputy assistant and chief clerk, \$3,000? A. Yes, sir.

Q. Now, will you tell us generally what the duty of an assistant district attorney is? A. It is to discharge any duties that may be assigned him by his chief, and in the case of the six regular assistants whom, as you understand, Mr. Ivins, are designated by the Legislature and have their salaries fixed by the Legislature —

Q. Yes. A. They are sworn officers who file an oath when they assume their office, and may, under the direct instructions of the district attorney, perform any of his functions; in other words, when any of the six assistant district attorneys act, it is the act of the district attorney; they are subordinate to the district attorney.

Q. Now, in what respect are the duties of the deputy assistants different from the assistants? A. They are not, if they are assigned to the performance of the same duty; the deputies, as a rule, with one or two exceptions, are retained for the clerical discharge of duties in the office, the examination of cases in consequence of the various complaints that from time to time come to the office, the demands for investigation into certain cases; and the assistant district attorneys are more usually assigned to the work of trying cases in court, and prosecuting the appeals therefrom.

Q. The assistant district attorney is simply a little more dignified officer? A. That is all.

Q. And apart from that, there is no practical difference? A. None whatever.

Q. For instance, Mr. Jerome might just as well try a case in the Supreme Court as Mr. Goff or Mr. Bedford? A. And very frequently does.

Q. And very frequently does? A. Yes, sir.

Q. And Mr. Goff or Mr. Bedford might just as well appear, in case of Deen, before a police justice or General or Special Sessions as one of the assistant deputies? A. And frequently do.



Q. Now, what was the salary of the assistant district attorney during the time of Mr. McKeon's term? A. It was the same as now.

Q. Was any deputy assistant known at that time? A. I think Mr. McKeon had some persons whom he designated as deputy assistants; I think, without remembering distinctly, because that is a designation conferred by the chief of the office, that his private secretary and his chief clerk were designated as deputies, although I won't be certain.

Q. Two of them, you think, were so designated? A. I think so; I do not wish to be considered as stating that positively; it is only my recollection.

Q. How many deputy assistants were there in the office during the term of Judge Martine? A. Four.

Q. As against which you now have seven? A. Yes, sir.

Q. Do you know what the salary was that was paid to those deputy assistants during Judge Martine's term? A. As I remember, the salaries were changed from time to time, according to the appropriation; I am inclined to think that some of them received as high — one certainly — as \$5,000; the other \$4,000, and so down.

Q. Didn't you, at the beginning of your term, make an application to the board of estimate and apportionment to increase the number of these deputies or to raise their salaries? A. I made an application to increase the force.

Q. How many did you ask for? A. I asked for three additional.

Q. What was your reason for asking for that? A. Because I thought that the work of the office could be better expedited and kept up by the increase of the force; there is a vast accumulation in the office of untried cases, and there will continue to be until some adequate relief is furnished by the Legislature; the cases are very largely in excess of the capacity to try them, either of the courts or the district attorney's office, and I hoped, by the formation of a bureau which should prepare, prior to its being taken into court, each particular case, to get the cases in such shape as that each court day we could dispose of more and keep the business of the office better up.

Q. You were elected, were you not, as the representative of the Democratic party of this State? A. Yes, sir.

Q. And were placed in nomination by both factions of the Democratic party? A. Yes, sir.

Q. On whose recommendation did you appoint John W. Goff? A. I think Mr. Power was the first gentleman who spoke to me of Mr. Goff.

Q. On whose recommendation did you appoint Mr. Bedford? A. Well, on numerous recommendations.

Q. Well, just tell us some of them? A. Well, I believe all the

judges of the courts, both of the Supreme Court and of the Sessions, united on an application for the appointment of Mr. Bedford.

Q. Has it been usual for the judges of the court to request you to make appointments? A. Oh, it is frequently the case, as they approved of candidates during a canvass, so they approve of their appointments.

Q. Who, beside the judges asked you to appoint Mr. Bedford? A. I think Mr. Wood, of the *Daily News*, suggested him as an admirable man to appoint.

Q. Do you know William Padean? A. Yes, sir.

Q. Did he ask you to appoint Mr. Bedford? A. He did not.

Q. Do you know Morris DeKulsky? A. I do not know that I do; certainly I do not recognize him by his name as a person I know.

Q. Did anyone representing the Central Liquor Dealers' Association, ask you to appoint him? A. No, sir; not a man.

Q. On whose recommendation did you appoint Mr. Semple? A. I do not know as it was on any man's recommendation; he was in the office and I retained him; he had charge of the appeals; his principal business under Judge Martine had been to prosecute the business of appeals in the Court of Appeals, and he has been wonderfully successful, showing great ability in the preparation of those cases, and I continued him.

Q. Who asked you to appoint Mr. Davis? A. Mr. Davis is another one whom I found in the office and with whom I had been associated, and his capacity, character and ability for his work commended him very strongly; I do not remember now any person who asked me for the appointment of Mr. Davis, but I know that Charles Daton and a number of other gentlemen, very warmly approved the appointment.

Q. Mr. Davis and Mr. Semple were both kept in the office because of your satisfaction with their ability and character and the performance of their duties in the past? A. Yes, sir.

Q. At whose solicitation did you appoint Mr. Dos Passos? A. At the solicitation of a number of persons.

Q. Was it not mainly on the solicitation of his brother? A. His brother mentioned him as a proper person to be appointed; I conferred with Judge Power, with John E. Devlin, since dead, who spoke very warmly of him, and with a number of others.

Q. Who recommended Mr. Parker to you? A. I do not remember now, Mr. Ivins; Mr. Parker had been called to the office by Judge Martine, after Mr. Coleman ceased to be the chief clerk, and Mr. Parker was assigned to the duties of chief clerk, a very important position in the office; he showed great capacity, great energy, made an excellent officer.

Q. He is a man of marked ability; is he not, in fact? A. He is a man of most excellent ability?

Q. Now, is the work of the office divided up in any particular way between these six assistant district attorneys, so that each knows generally what his particular field of work is? A. To a degree, yes; for example, Mr. Semple has almost exclusive charge of the appeals, and the exceptions are only of so slight a character as to establish the rule; in certain special cases where gentlemen have expended a great deal of time in the preparation and arrangement of a case, and have tried it, they are permitted to take charge of the appeal; that is the case in the Flack case, where Mr. Goff had very largely the preparation of the preliminary steps of that case, and I have requested him to take charge of the appeal to argue it before the Appellate Court; but those cases are rare; the ordinary appeals of the office go into the hands of Mr. Semple; he examines the various decisions on the exceptions, prepares the brief and conducts the argument, and it occupies almost his entire time; it is a very important work; Mr. Dospassos has been assigned almost exclusively to the duty of attending to the prosecution and settlement of the collateral inheritance tax cases, a business which came into the office for the first time under my administration by the operation of the law which did not take effect in this county until 1887.

Q. Will you just explain how those cases arise in such a way as to compel the attention of the district attorney? A. The law compels the district attorney to attend to them,

Senator FASSETT.—He is the collector's attorney?

The WITNESS.—He is the collector's attorney; whenever the comptroller of the city sends a list of cases to the district attorney notifying him that the State tax has not been paid upon these various legacies, it is made the duty of the district attorney to issue citations and the necessary notices and take steps to prosecute the claim in the Surrogate's Court, and the volume of business has been very large, and the emoluments very small.

Q. What record do you keep of that volume of business? A. A perfect record, an absolute record; Mr. Dospassos keeps it; and I may say, in passing, that Mr. Dospassos, by reason of his experience in that direction has become very useful, and has just published a volume which is accepted by the profession, I think, as the law on the collateral inheritance tax.

By Senator FASSETT:

Q. Does he get an emolument from this work? A. He does not.

Q. I mean does the office? A. Yes; the district attorney is allowed not less than ten dollars and not more than seventy dollars in each

case; the comptroller is allowed a percentage upon the amount collected, varying according to the amount; the work of the district attorney, I think — well, I may say it has averaged twenty dollars in a case; I think I have had but three cases in which the costs allowed have been as high as seventy dollars; most of them have been twenty-five dollars — nearly all of them twenty-five dollars — and out of that we have to pay the expenses in the preparation of papers.

By Mr. IVINS:

Q. Have you any accurate recollection as to about the number of such cases? A. No, sir; I have not, but I can give it to you; we have the complete record.

Q. Do you know why the district attorney came to be named as the person to act for the comptroller in the collection of these taxes? A. Why he can not be named?

Q. Why he came to be named? A. No; I do not.

Q. Is not this the fact, that so far as New York city is concerned, that is an anomaly? A. Utterly so; and I want to say just here in the presence of those who shape our legislation, that no wiser provision could be made than to take that from our office; it has no place there.

Q. The law provides that these collateral inheritance taxes shall be collected by the county treasurers in every county of the State except in the city and county of New York, where it shall be collected by the comptroller? A. Yes, sir.

Q. Now the district attorney in the other counties of the State is quite the proper person to act for and with the county treasurer in collecting those taxes, because there is no county counsel, so to speak? A. That is it; it is a part there of a State system, and here they are dividing a State officer and part of our general system with a bureau of the city government.

Senator FASSETT.—Who could be the proper person here, the corporation counsel?

THE WITNESS.—The corporation counsel or some person designated by the comptroller and paid for out of his fees; certainly the district attorney's office ought not to have charge of it.

Q. So far as the comptroller's office is concerned, have you any idea as to the proportion of the comptroller's fees which is required to enable him to administer the law? A. No; I have not.

Q. But in any case, you think that the cost which is now borne by the district attorney's office should be borne by those fees? A. I do.

Q. So that the return should be net and not gross? A. I certainly do, I think it is as you have designated it, it is utterly an anomaly



that the district attorney of a county like this should be required to be the attorney for the prosecution of these cases; let me say that it has cost the county of New York, in the person of an assistant district attorney, \$22,500, or will by the first of January, to assist in the collection of these taxes, not one single penny of which goes into our county treasury, and the emoluments of which will not realize to the district attorney \$1,500 in all, out of which he has to pay the expenses of the work.

Q. But out of which he has to pay such expenses as arise additionally to the salary of the assistant? A. Certainly; he has to pay for the preparation of all the papers; there are volumes of that; in some instances we have to send out, forty, fifty, seventy-five subpoenas in a single case, and they go all over the county.

Q. The performance of his work has not actually cost you anything over and above the amount of the fees? A. Oh, no; not as much.

Q. It has not cost you as much? A. It has not cost us as much.

Q. In a word, there has been a small margin of benefit to you? A. Yes, sir.

Q. But as a matter of fact there is some \$22,500 paid out of the city treasury to enable you to earn that small balance? A. To enable the comptroller to earn the commission which he gets out of the entire sum collected through taxation of collateral inheritance; what I mean to say is that it takes an assistant district attorney his whole time to properly attend to these cases, and that his attention can not be diverted from the preparation and conduct of these cases; very vast sums have been gained for the State, enormous sums; the State treasury has been the recipient of a very large amount, and a single glance at that large work that has been done will show how onerous the duty has been here upon who is assigned to it in the district attorney's office.

Q. Do you know of any reason why the law should not be changed as affects the entire State, so far as concerns the manner in which the district attorneys employed in this particular work are to be paid? That is, should it not come out of the fees of the county treasurers instead of out of the county treasury itself? A. Unquestionably; I think there is very good reason why it should be changed, and none why it should remain as at present.

Q. There can be no argument against it? A. None whatever.

Q. Now, Mr. Dos Passos has charge of this particular branch? A. Yes, sir.

Q. And you have described Mr. Semple's work? A. Yes, sir.

Q. Now, how is the work of Mr. Goff, Mr. Bedford, Mr. Davis and Mr.

Parker, for instance, divided among them? A. Mr. Goff, Judge Bedford, Mr. Davis, Mr. Parker and Mr. Jerome are the force who are constantly in court; except in rare instances; they are the gentlemen who each month have charge of the calendars; they seem, by their experience, by their professional knowledge, by their powers as advocates, to be better fitted to try cases in court than perhaps other gentlemen would be, and they are largely assigned to that duty; then on the months that they are off — because there are but three courts — there are constantly arising important cases before the coroner, important cases in connection with the police department, and especially with the chief inspector of that department.

Q. Now, will you stop right there and tell us what you mean by important cases which run into the police department? A. I mean to say, Mr. Ivins, that there are frequently cases where the district attorney's office, and the chief inspector especially, who is at the head of the detective force in this city, work together for weeks and months quite unknown to the public in the development of the case before the public knows anything about it; that is the secret work which is inseparable from the conduct of the district attorney's office in a county like this.

Q. Isn't that a part of the work for which you pay out of your contingent fund? A. In some instances, yes; where detectives are sent to gather certain information for the district attorney's office, we must pay their expenses.

Q. In the first place, let me ask you why do you ever use any detectives except the detectives of the police force? A. I do not.

Q. You never do? A. I never do; that is a rule that I adopted, and a rule that, when I was assistant, I always impressed upon my chief; and I think the whole history of this county has shown that it is dangerous to go outside of the regular police force of the city to secure police work.

Q. That was not the rule of the office prior to your term, was it? A. Well, perhaps not; it is my rule, and it will be very rigidly and explicitly adhered to while I stay there.

Q. But largely in the office prior to your own term? A. Yes, sir; I think some outside detectives were employed, not to a considerable extent, under Judge Martine; far, far more so under Mr. Olney and Mr. McKeon.

Q. By the way, were you not in the office with Mr. Olney? A. Yes, sir; and with Mr. McKeon.

Q. Mr. Olney having held for the remainder of Mr. McKeon's time? A. The unexpired time of Mr. McKeon's term; Mr. McKeon died

before his term expired; the suggestions which I wish to make is this, Mr. Ivins: According to my experience and observation in this office, anything which is calculated to produce friction or hostility between the district attorney's office and the regular police force of this city, is injurious to this city, and tends very largely to subvert the true purpose of both departments.

Q. Is it not a fact that the police department and your office are the right and left arm of the whole system? A. They are, and should act in conjunction and harmony with each other.

Q. Suppose that a detective were to be sent to some ominous place like Montreal — A. I have heard of the place.

Q. [Continuing] and had a lot of expenses, which expenses had been accruing from the time he left New York city until the time of his return, who would pay those, you or the police department? A. If sent under the direction of the district attorney's office, the contingent fund of the district attorney's office would pay for it.

Q. What do you mean by under the direction of the district attorney's office; at the request of the office? A. Yes; at the request of the office, since I think in the police department no fund is provided for that whatever.

Q. Suppose the superintendent of police were to send a man to Montreal or Chicago in a matter that interested his department alone, and which had not been called to your attention at all; for instance, in the detention of a criminal for the purpose of bringing him back here and securing his indictment, after discovering that a crime had been committed, but it being still undiscovered who committed it; that would certainly be charged against the contingent fund of the police department, would it not? A. Certainly, if they have any contingent fund; it would be paid for by them, and not by us.

Q. If, on the other hand, you requested that some person be designated by the police superintendent to get evidence to convict a man already indicted, that would be paid for out of your contingent fund, would it not? A. Yes, sir.

Q. Have you ever made any inquiry, directly or indirectly, as to the possibility of such persons being paid for out of two contingent accounts? A. No; I have not; where the accounts are presented to me properly certified and sworn to and they seem to be reasonable, I approve them.

Q. Well, now, it would be perfectly certain that that thing could not under any circumstances happen, would it not, if the vouchers of the police department as well as the vouchers of your department went through the hands of the same auditor? A. Yes, sir; and it is very certain it ought not to happen.

Q. You are aware of the fact that the vouchers of the police department are not audited in any such way as to enable a comparison?

A. I believe that to be so.

Mr. IVINS.—Mr. Chairman, I do not wish to cast any insinuations on the police department at all; I do not know as anything of the kind has ever happened; I am simply running down the system of accounting, and some inquiry will have to be made as to the possibility of a means of preventing anything of that kind in case it were to happen.

Q. Now, Mr. Jerome, I find that you clash with the assistant district attorneys who are allotted generally to the trial of cases and the attention of the calendar? A. Yes, sir.

Q. What does Mr. Lindsay do? A. Mr. Lindsay is at the head of the indictment bureau, has charge of the preparation of all cases and the presentation of them to the grand jury.

Q. Who draws the indictments? A. Mr. Lindsay.

Q. At whose suggestion did you appoint Mr. Lindsay? A. Mr. Lindsay was there and I continued him; he was in charge of that bureau.

Q. At that time? A. Yes, sir.

Q. How long had he been there? A. I think from the first year of Judge Martine's term.

Q. Is there any more important place in your office than Mr. Lindsay's? A. There is not.

Q. As a matter of fact, if Mr. Lindsay errs in the drawing of an indictment, that is very apt to end the matter, is it not? A. Yes.

Q. Did Mr. Lindsay draw the indictment in the case against Flinn and Squire? A. Without an examination of the indictment, I could not say; his handwriting would show me whether he did or not.

Q. Flinn and Squire were discharged because of the insufficiency of that indictment ultimately, were they not? A. No; I think Flinn and Squire went out of court because we had no evidence; the indictment was a good pleading; we had no evidence; after the death of Mr. Thompson and the death of Mr. Charles P. Miller, there was absolutely no evidence which justified us in going to trial upon that indictment; the evidence that we did try to get in, the court held was incompetent and irrelevant, and we could not possibly start the case.

Q. Is it not a fact that they were indicted for something you could not prove, and that that indictment was a second indictment, and that the first indictment which might have been proved had been withdrawn and a new indictment found? A. Well, I won't answer that the first indictment might have been proved; the



second indictment I certainly never favored; I did not think that it could be successfully prosecuted; I believed that if a crime could be established at all, it could be established under a different section of the code where the proof was plain and simple, if we had any proof at all.

Q. Is it not a fact that Mr. Nicoll drew that second indictment? A. That I can not tell you without looking at the indictment; the handwriting will disclose who did it.

Q. What experience did Mr. Lindsay have in drawing indictments prior to his coming to your office, do you know? A. He was an assistant under Mr. Davis, who had charge to some extent, of that bureau; and Mr. Lindsay exhibited from the outset of his career a wonderful adaptation to that work, extraordinary capacity for a young man as a criminal pleader, which every lawyer knows is one of the most important functions of the profession; and it was on account of his accuracy, his thorough knowledge of the statute and his capacity in that regard that he has been kept.

Q. What do Messrs. Dawson, McDonough, Hartman and Grossey do? A. Mr. Hartman has charge, particularly, of the forfeited recognizances cases, and that is an important branch in the office.

Q. That is a branch in which you worked some improvement, as testified heretofore? A. Well, I hope so; I think that I have certainly paid over to the city a great many more thousands of dollars each year than has been hitherto paid, except that Judge Martine in one year collected from Sayles, as you will remember, \$25,000 in one sum, and that swelled the aggregate of that year pretty largely; but I mean in the general collection, I think there has been an improvement.

Q. That word "Sayles" there is a proper name? A. Yes, sir; S-a-y-l-e-s.

Q. Well, what does Mr. Grossey do? A. Mr. Grossey is employed generally, to attend to examinations before police magistrates from time to time, to attend upon coroners' inquests occasionally, to try cases in court, and to examine and prepare cases which come into the office.

Q. And Mr. McDonough? A. Mr. McDonough tries more cases in court than Mr. Grossey, but his work is very largely the preparation of cases.

Q. Mr. Dawson? A. The same; although Mr. Dawson has had some important cases assigned to him which he has worked up and tried in court; they are general work; the idea I had in view was that this class of officials should prepare the cases.

Q. Will you tell the committee how your calendars are made up?

A. The calendars are made up by the chief clerk; it is supposed to be under the personal supervision of the chief of the police as is every other department, manifestly, it can not be literally; the chief clerk to whom all the indictments go and upon whom all writs and processes of every kind are served, has the physical custody of the indictments; legally they are in the custody of the chief clerk of the General Sessions; actually, they are left for the purpose of convenience, in the hands of the district attorney and in the safes of that department, and are under the control of the chief clerk; he makes up the calendars.

Q. He makes them up, rather, under instructions as to special cases? A. As to special cases.

Q. For instance, you say "I shall be prepared to try such and such a case on a certain day, so put it on the calendar of that day?" A. Yes, sir.

Q. And that the assistants do as well? A. Yes; let me go further; the assistants who, from time to time, have charge of the calendars very largely assist the chief clerk in making up the calendars; there are special cases which have come to their knowledge, and about the facts of which they are conversant, and they instruct the chief clerk, to put those on the calendars, but, outside of that, he makes up the calendars at his will.

Q. Now, aside of that, suppose the chief clerk wanted to keep a case off the calendar; let us say some minor case; you recognize the impossibility of his doing so in relation to any case that arouses the public attention; but some minor case, he might keep the case off the calendar for a long while, might he not? A. He might.

Q. Could he not virtually keep it off so long that it would amount practically to immunity from trial? A. Yes; unless attention was called to the fact by the press, or it was called to the especial attention of the district attorney, or, in some way, knowledge of what was being done came to the official head of the office; then, of course, the responsibility would be upon him.

Q. Now, without asking why the work of your office is in arrears, if it be in arrears, I ask first if it be in arrears? A. It is.

Q. And how much is it in arrears? A. Well, that I could not tell you now.

Q. How many thousand cases do you suppose there are in your office, in the form of indictments, now awaiting trial? A. I do not think there are thousands of cases.

Q. Well, there are a thousand, are there not? A. Probably; may be more.

Q. Possibly 2,000? A. Yes, sir.

Q. There have been accumulations of cases to the extent of 4,000 or 5,000, have there not? A. Yes, sir.

Q. And the calendar has been cleared, from time to time, by the action of the grand jury, in wiping out whole classes of cases? A. Yes, sir.

Q. Do you suppose that you have now two thousand, or twenty-five hundred cases untried in the office? A. I doubt if there are as many as that; there may be 1,500 or 1,600; there may be more, or there may be less; I can not tell; I mean of cases that have come in since I have been district attorney, without going back.

Q. There are a number of cases in the office that were there when you became district attorney, are there not? A. There are cases in the office that have been there for twenty-five or thirty years untried.

Q. How many thousand cases do you suppose there are which had accumulated in that office, and which were left as a legacy to you? A. Mr. Ivins, it would be utterly impossible for me to tell without making an examination of the records; it is very large.

Q. Has it not been a very exceptional thing for you to try any cases which were so left as a legacy; — when I say exceptional, I mean excepting cases of homicide, or cases such as the aldermanic cases, or cases which had attracted great public attention? -A. It has been.

Q. Now, as matter of fact, has it not been the practice in your office for all district attorneys to confine themselves more especially to the trial of the indictments found during their term, than to the trial or indictments found during antecedent terms? A. It has been.

Q. From which it results that if a man escapes trial until a new district-attorney has been elected, he is very apt to escape altogether? A. If the case is a misdemeanor, and if the party is on bail, that is quite apt to be the case; it may readily be the case.

Q. To all practical intents and purposes, those calendars are cleared by the election of a new district attorney every three years, aren't they? A. Well, they are not cleared, by any means.

Q. They are just as good as cleared, are they not? A. They are suspended; in cases of misdemeanors — I mean to say this: that the district attorney who comes in on the first day of January, at the beginning of a new term, finds from that hour more cases, more new cases coming in than he can try.

Q. Then from that hour the cases begin to overtake him? A. Yes.

Q. And that class of cases has overtaken you by certainly 2,000? A. I should think so.

Q. So that instead of keeping up with your work, and being able to

get rid of some of the work that you inherited, your work has over-run you? A. It has; now, let me say just here, because it is only fair, I think — you are seeking for remedies —

Q. We are seeking for remedies, and we are not seeking anything else? A. This should be known; these courts — we have three courts, and we have at various intervals in the year an Oyer and Terminer, which sits about three weeks at a time; we have three courts; each day the calendars of those courts are full; each day they are trying cases; in other words, all the criminal facilities we have in this county for the trial of causes are constantly employed; it, therefore, can not be said that the courts are not being given business; and yet, sitting all the time, there is this accumulation of business; the statement simply indicates that the business is beyond our facilities, and that there must always be an accumulation of indictments untried.

Q. Haven't you had several controversies with the recorder as to the want of preparation of your subordinates? A. Yes.

Q. And has he not publicly charged that your office was not ready to try the cases that were set down on the calendar for the day, and so the court had to be adjourned with nothing done? A. In one or two instances, in the history of every administration of the district attorney's office that has ever been here, it has been done, and in every part of this court; you, and every other lawyer, has seen it done often and over again; that from some causes that you could not anticipate, a calendar brakes down; that is very, very rare in the Sessions here.

Q. Now, let's stop there a minute; let's take the calendar, the civil calendar in this Superior Court; the calendar may break down in that case, because each particular lawyer having charge of each particular case, may have some other engagement or may be ill, but, as a matter of fact, when you make up a calendar that entire calendar is in the hands of one district attorney, is it not? A. Yes.

Q. Well, why is it that that particular district attorney should not be prepared to go on with any cases on that whole calendar? A. Well, let me tell you why it may be that he is not; in one instance in which a court was adjourned, one part of our court was adjourned, for the want of cases, there were four cases on the calendar in which every witness was present; the people were prepared to go on; I have never been able to see yet just why that part adjourned, because there was business enough to have occupied the day, but there was one case about which there had been considerable comment, and that had excited considerable interest in which we could not procure the witnesses; they were not present on that day, and when that case was



called and the witnesses did not respond, the court adjourned, I think without any real necessity for its having done so; now, I will cite you what may occur — what does occur frequently; we put fifteen cases upon the calendar; fourteen of the fifteen defendants march right up to the bar of the court in the morning and plead guilty, and the work of the court, so far as that calendar is concerned, is practically over in fifteen minutes, and it may be that in one case out of the fifteen, by the absence of witnesses, etc., we are not ready to go on.

Q. You have to be prepared in every one of those cases on the assumption that they will plead not guilty? A. We do.

Q. And have no means of knowing? A. None, whatever; this week two of the parts have adjourned at quarter of 12, having entirely discharged the calendar, every prisoner having pleaded guilty.

Q. You never heard a judge complain of that, though, did you? A. No.

Q. What the judges have complained of is that cases which had to be tried were not ready for trial? A. I don't think there has been complaints of that sort; there have been some, not many.

Q. Let us assume that the number of accumulated cases untried, which came into the office during your own term is, in round figures, say 2,000; I will make the record perfect in that regard by getting the exact figures.

By Senator McNAUGHTON:

Q. You said fifteen or sixteen hundred? A. I should think, but it is all conjecture.

By Mr. IVINS:

Q. [Continuing.] Well, 1,500 or 2,000; it is immaterial — A. It is all conjecture.

Q. On what class do these cases mainly consist? A. Misdemeanor cases.

Q. Now, what particular class of cases makes up the majority of the misdemeanor cases? A. The excise cases.

Q. Now, how does any particular excise case ever get on the calendar? A. The chief clerk is instructed, as the calendars get arranged with reference to the prison cases, to put on, from time to time, as many excise cases as he can; there is no specific instruction with regard to that case, with regard to that class of cases, beyond that.

Q. He picks them out haphazard, does he not? A. He picks them out hap-hazard.

Q. Does he take them in order of time? A. Not usually for trial, although we take them in order of time, or I have attempted to, for

the purposes of indictment; let me say to you Mr. Ivins, that when I went in the district attorney's office I found over 5,000 complaints in excise cases which had not been submitted to the grand jury; you can judge from that what the accumulation is; I had a special grand jury convened —

Q. How many such complaints do you suppose there are now which have not been submitted to the grand jury? A. A good many.

Q. A thousand? A. No; I should hardly think there were as many as that, because, for the purpose of preventing the statute of limitations from attaching, I have taken the older cases and given them to each grand jury; yet I have had grand jury after grand jury that have refused to take any cognizance of these cases, or that have attended to only a very small percentage of them, and that by reason of the fact that the accumulation of prison cases, prison business, was so large.

Q. Offenders against the excise laws may escape in either of three ways, may they not; first, by the failure of the police justice to hold them; second, by your failure or inability to have the grand jury consider the complaints, or, third, after indictment, by your failure or inability to try? A. Yes.

Q. Now, have you ever heard of an excise case where the indictment was found during the term of one district attorney being tried during the term of a succeeding district attorney? A. Yes; I think I have tried a good many.

Q. You think you have tried a number of the old excise cases? A. Yes; I think that when that general stirring up occurred and we found this accumulation, I took up the excise cases; indeed, I started, Mr. Ivins — if I may interrupt your inquiry for a moment —

Q. Certainly. A. I started out with a good deal of confidence in my capacity, with this new force organized as it was, to keep abreast of these excise cases, and when Dr. Crosby and Judge Arnaux and some other gentlemen visited me, I told them, at the outset of my term, I had no doubt of my capacity to keep up with these cases; I had not gone far before I found that I could occupy every grand jury and all of the three parts of the court in the trial of those cases alone during each year, to the exclusion of every other case.

Q. As a result of which you tried very few excise cases? A. Comparatively few; a great many cases have been disposed of by sending them to the —

Q. Now, I call your attention to the fact, as shown by a statement rendered from your office, running from the 1st of May, 1889, to the 19th of May, 1890, being a few days over a year; showing that you

only placed before the grand jury 1,683 cases; that of this number, 353 were indicted, 261 dismissed; that there were disposed of by indictment and dismissal, 641? A. Do you refer to excise cases?

Q. These are excise cases? A. Yes.

Q. Now, that 614, as you will notice, does not compare with 1,683, the number which was placed before the grand jury, the grand jury having found 353 indictments and 261 dismissals? A. Yes.

Q. What became of the remainder of those cases? A. They were not acted upon by the grand jury.

Q. They were not acted upon by the grand jury? A. They were not acted upon at all.

Q. Then you called the attention of the grand jury to 1,683 cases? A. Yes, sir.

Q. Of which number they only acted upon 614? A. Yes.

Q. And of which 614 they only found indictments in 353? A. Yes, sir.

Q. Well, have you called the attention of the grand jury to all the cases? A. At every session.

Q. All the cases go before them? A. Oh, no.

Q. All the cases of complaints, I mean? A. In excise cases?

Q. Yes. A. Oh, no; they cannot.

Q. Why don't you call their attention to all the cases and then let the responsibility rest with the grand jury as it does in the balance of more than a thousand, as shown on this statement for this current year? A. Mr. Ivins, the Code of Criminal Procedure expressly prescribes the order in which the work of the grand jury shall be done, and that is made by law, a part of the charge of the court at each convention of the grand jury, to them; they are required by law to give their first attention to the cases of the people in actual custody; people who are locked up and unable to give bail must, by the provisions of our statute, receive the first consideration from the grand jury; they are next to inquire into the corrupt action of public officials, if any such cases exist; and, third, they are to inquire into the care and condition of the prisons and houses of detention, etc.; that is the order prescribed for them.

Q. Does each grand jury inquire into the condition of the prisons and houses of detention? A. Usually by the appointment of a committee; rarely ever as a body; they designate a committee.

Q. Does each grand jury receive a report from that subcommittee? A. Yes.

Q. And is that made of record? A. Yes.

Q. In each case? A. Yes; I think in every single instance of the

assembling of a grand jury, immediately upon their retiring from the court to their room; I have gone before them and asked them to assist me as far as they could in getting rid of this accumulation of misdemeanor cases, particularly of excise cases; I have told them what a growing scandal it was that there should be such a vast number of untried cases in the district attorney's office, and I have asked them to make such presentments as they have made from time to time calling the attention of the Legislature to the necessity of some relief, because it will continue to grow just as long as we continue a city, unless some new methods are prescribed of dealing with the question, and I believe the grand juries, as a rule, have given all the attention to these excise cases they can; the fact remains right there that the grand jury can't consider one-fifth of the cases and the courts can't try one-tenth of the cases they do consider.

Q. And for all practical purposes, so far as the policing of the liquor business of this city is concerned, it is a tub without a bottom, is it not? A. It is, indeed.

Q. There is absolutely nothing in it? A. No, sir; — well, I won't say that.

Q. You know that there are many thousands of arrests made for violation of the law in the course of a year? A. A great many.

Q. And as against a great many thousands of such arrests we find but 353 indictments? A. Yes.

Q. Now, I find that of those 353 indictments you secured convictions in forty-four cases? A. Yes.

Q. But I find by this statement that that list of forty-four convictions stands for forty-three persons who pleaded guilty and one who was tried and convicted? A. Yes.

Q. So that you secured on trial one conviction? A. Yes.

Q. Out of that lot? A. Yes, sir; and I consider it a very fair percentage.

Q. Then out of the many thousands of arrests made in the course of that year you were enabled on a trial to get the conviction of one offender? A. Yes, sir; Dr. Crosby, Mayor Hewitt and myself formulated a method of dealing with this question which I think would have relieved us, but which did not receive the approval of the Legislature.

Q. Do you think there is any reason why the liquor dealers of this city should stand in awe or terror of the law, in view of this condition of affairs? A. They ought to.

Q. Why ought they; if that is the condition of affairs why should they stand in fear of the enforcement of the law? A. I don't think you expect me to answer that question.



Q. No; but your last answer — you are the prosecuting attorney of this county? A. Yes.

Q. Do you think that any offender should stand in fear of a law which you, as the prosecuting attorney, testify can not be enforced?

A. Can not be enforced to its full extent; it is largely the same with bail cases and the same inquiry might be addressed me with reference to bail cases; the accumulation of business, of criminal business, beyond our present facilities for trying is so large that when parties give bail in misdemeanors, not only in excise cases but in assault cases and in all the lower grades of crimes, the percentage of those who are thereafter tried is very small because our courts are occupied every day in the trial of men who can not give bail, who must be tried or kept locked up in prisons.

Q. Is it not a fact that our public expects to see these laws enforced?

A. They do.

Q. Is it not a fact also that breaches of the law are so numerous that the present means for enforcing them — A.—Are inadequate.

Q.—Are not only inadequate but markedly inadequate? A. That is true.

Q. And is it not true that if we are to have an enforcement of these laws, it would require double or treble the force, and double or treble the expenditure? A. Yes; if you leave the law as it is.

Q. If you leave the law as it is? A. If you leave the law as it is.

Q. Now, will you make any suggestion as to how the law could be amended so that we would not be accumulating criminals here who are untried? A. The first suggestion that I would make would be to call the attention of the Legislature very earnestly to the report of a commission that was appointed, composed of most estimable gentlemen, who had in view the revision of our excise law, the simplification of it, its arrangement and adjustment, so that its provisions should be understood.

Q. You mean that commission of which Dr. Howard Crosby was a member? A. Yes.

Q. And concerning which he testified on this stand? A. And Mr. Rollins, who had been assistant district attorney and the district attorney of this county for a long period, and than whom no man in the world was better equipped to give suggestions upon this subject; there is one suggestion I would make for what it is worth; I think that a simulation of our system of excise to the English system would be a very vast improvement over the present; and let me tell you why it is that it is very difficult to try these cases in our courts while prisoners are locked up, and why the difficulty of getting convictions

is so great; it becomes, in every instance where a man is indicted, a life and death fight; you would suppose that the trial of a case in which the punishment might be the infliction of a fine of five dollars or of ten dollars would not be severely contested, but there is one provision of our excise law that makes these excise cases to the men involved matters of importance; a person is engaged in the liquor business; he has, if you please, every dollar in the world he has got in the plant and equipment of that business; he receives, after paying a sum of money, a promise by the law that he shall pursue that business if he keeps a covenant that he makes with the law; he is indicted; a conviction, although it may be followed by a five dollars fine, is a revocation of his license, and imposes upon him a disability to receive another license, either for himself or his place, for three years; that amounts to a practical confiscation of the property, and by reason of that fact these people who are indicted fight with an intensity and bitterness which you can readily understand; they exhaust every single remedy in their power; they make it as difficult as possible to try these cases, and a change in the law would be extremely beneficial; the English law prescribes a certain penalty for the first offense, but is not accompanied with a revocation of the license; and it is only there, I believe, after the third repetition that the license is revoked and the party is rendered unable to procure another; I only throw that out as one of the reasons why this class —

Q. That is one reason of difficulty in the trial of a case? A. Yes, sir.

Q. And that difficulty is accompanied by this other difficulty that the police officer who makes the arrests must satisfy himself from the evidence that is before him, that there has been a breach of the law? A. Yes, sir.

Q. Which evidence, though sufficient to satisfy him to make the arrest, however, may not be sufficient to satisfy a court in holding an indictment? A. Yes.

Q. Now, you said that you would advocate a simulation in some measure of our system to the English system; is it not a fact that under the English system, conviction also works a forfeiture, not only to the person, but to the place? A. After the third indictment; the first indictment, the first violation, as I remember the English excise —

Q. You don't mean the indictment; you mean the summary procedure before the magistrate? A. Well, the procedure, yes; the information of the crown, in whatever way it is received, in the first instance, is accompanied, where there is a conviction, by the infliction of a fine; in the second instance, by the infliction of a fine and a term

of imprisonment, or either; in the third instance, an increased penalty and the absolute forfeiture of the license without power to obtain another; it is a perpetual forfeiture, so that the parties, from step to step, are placed upon their guard, and made to know that the law will be enforced.

Q. There are simply three admonitory steps under their system?

A. Yes, sir; the result in England is that the excise law is enforced; it is thoroughly enforced.

Q. Now, Colonel Fellows, can you tell me how many excise cases have been put on the calendars during the last six months, or since May nineteenth? A. No; I can not, here; I can tell you from the records of the office.

Q. Do you know how many excise cases have been put on the calendars during the past month? A. I do not.

Q. Do you know whether any excise cases have been put on the calendars during the past month? A. Well, you ask me if I know; I should say yes, there had, but I don't know positively without an examination.

Q. Would you make the same answer if I had made the question during the past two weeks? A. Yes; I should say yes.

Q. Do you know of any reason why no excise cases should have been put on the calendar, in case we were to discover that they were not at all? A. None whatever.

Q. Have you given any instructions to anyone about putting excise cases on the calendar? A. I have not.

Q. How long is it since you have given any instructions to anyone concerning the placing of excise cases on the calendar? A. I have given no instructions.

Q. At any time? A. No, sir; beyond the general instructions to put those cases on the calendar, just so far as they could be put on with reference to the other cases.

Q. That is what I mean, general instructions; you gave general instructions at the beginning of your term? A. And I have repeated them from time to time since.

Q. From time to time? A. I think almost every month.

Q. What steps have you taken personally to see whether any such cases have been put on the calendar? A. Oh, I have taken the step of personal inquiry; the calendars are put upon my desk each morning after they are printed and before the courts convene; I examine them and see what cases are on, to see if there are any to which I wish to give special attention; I go almost every day before the grand jury to see what they are doing with these excise cases, and I have to say to you

now, Mr. Ivins, that it was but day before yesterday that the foreman of the grand jury, whom you know well, a most excellent and efficient man, told me that they were just prepared now in their work —

Q. Who is the foreman of this present grand jury? A. Mr. Little, the type founder; he told me that the grand jury was just prepared, for the first time in their investigations this month, to consider some excise cases.

Q. Now, during the year, from May, 1889, to May, 1890, you actually tried and secured a conviction in one case; has that phenomenal thing been repeated since the nineteenth of May? A. Not that I am aware of; I can not tell you.

Q. Not that you are aware of? A. I don't know.

Q. You are not aware then of the fact that there has been an actual trial resulting either in acquittal or conviction in any case since the nineteenth of May? A. No; I could, of course, ascertain, but I do not know now.

Q. Would not that be so remarkable a thing, that if it had occurred you would be pretty apt to know it? A. Perhaps so; as a rule, Mr. Ivins, the parties, when finally compelled to go to trial, plead guilty, or ask to have their cases sent to the special sessions; that court has jurisdiction, and our courts, finding that they could not be burdened with this volume of cases, have always very readily consented to send them to the Special Sessions, and nearly all these cases, when they are finally forced to issue, go to the Special Sessions.

Q. Colonel Fellows, a great deal of attention has been called to the fact, during your term of office, that while certain convictions were had in what are known as the aldermanic cases during the term of your predecessor, you have failed to secure convictions in like cases during your own term; you have been subject to a great deal of very harsh criticism through the public press with regard to that? A. I believe I have.

Q. And if you have anything to say, that you care to say, as explanatory of your failure in those cases, I am sure the committee would be very glad to have an explanation of the entire matter. A. Well, I don't know, Mr. Ivins, I have received a good deal of criticism, but I have been somewhat comforted under it by the assurance of such a man as Judge Daniels — than whom, I believe, it is conceded we have no abler jurist and no more honorable man — that every possible effort that could be made to secure convictions in these cases was made, and a failure to do so arose from a changed condition of affairs; it was utterly impossible to secure conviction for a number of reasons.

Q. Let's take that a little in detail — you give your number of



reasons first though? A. There are a number of reasons; first, these cases, with one exception, were reversed.

Q. That one exception was what? A. Was the O'Neil case, because the Jaehne case did not come within the category?

Q. The Jaehne case did not come within this category, properly speaking, at all, did it? A. Not at all.

Q. And if it had not been for the fact that Jaehne had been a law-breaker in other matters, and before this, and had himself, as incident to the discovery by the police that he had been a receiver of stolen goods, made a confession which implicated him, he would not have been convicted, in all probability, would he? A. Well, it is certainly — no; I should say not; it is certainly —

Q. So it is fair to say that his conviction grew out of the fact of his own confession? A. Yes; it grew out of his own confession, accompanied, as the statute required, by just so much of corroborative evidence as seemed to imply that a crime had been committed; when we first came to what is known as the informers' testimony, to the trial of cases which had for their foundation the evidence of Fullgraff and Duffy, the case of McQuade was the first one; the first trial of McQuade resulted, as you know, in a disagreement, the jury standing, from first to last, nine for acquittal to three for conviction; in the subsequent trial of McQuade this same testimony was introduced, re-enforced by the testimony of Katie Metz, and our cases thereafter, as far as the aldermen were concerned, rested upon the direct evidence of these three witnesses and upon the suspicious circumstances which accompanied the grant of the franchise.

Q. And upon the evidence, in some of the earlier cases, of the testimony taken before the Senate committee? A. The Senate committee; now, then, all of those convictions were reversed, the notable instance being Sharp, upon one end of this line —

Q. The main ground of reversal being there that the testimony taken before the Senate committee was not admissible? A. Was not admissible, and the testimony that we had introduced regarding his connection with legislative matters was not admissible.

Q. You assisted in the trial of those cases, did you not? A. Yes, sir.

Q. You and Mr. Nicoll tried those cases, did you not? A. Yes, sir.

Q. Were you not, both Mr. Nicoll and yourself, in frequent, if not continuous consultation with the court pending that trial, those trials? A. I never had any consultation with the court.

Q. Was not Mr. Nicoll? A. That I can only answer from information.

Q. Did not Mr. Nicoll tell you that he was himself conferring with the court with regard to the preparation and trial of those cases dur-

ing the term that the cases were pending? A. I think only with regard to the time, the place, the time that could be given to the trial; if you mean to imply by that, Mr. Ivins, any consultation with the court by which anything was prearranged as to the results of the trial or as to methods that should be pursued; no.

Q. Did not Mr. Nicoll tell you that he was in consultation with certain judges of this city with regard to the question of the admissibility of the testimony taken before a Senate committee? A. I don't remember that he ever did; he may have stated —

Q. Did you never hear that? A. He may have stated that he had conferred with judges and with lawyers with reference to the admissibility of testimony, but I never heard it implied or intimated that he had conferred with the trial judge with regard to the admissibility of testimony, nor do I believe he did.

Q. Now, had that testimony taken before the Senate committee been refused admission in the first of those cases, do you, as having participated in the trial, believe that conviction would have been possible? A. I do not; if the evidence that was stricken out from those cases by the Court of Appeals had never been admitted in the cases there never would have been a conviction.

Q. Any conviction whatever? A. No; there could not have been a conviction.

Q. Then the taking of those cases to the Court of Appeals, the taking of the time of the Court of Appeals and of the time of the General Term, and of the time of the trial court, with all the consequent expense to the State and the subsequent failure to hold the parties, was incident to the error of the trial court and of the district attorney's office, the one in suing for the admission of that testimony and the other in admitting it; is that not the fact? A. Well, it was unquestionably, in my judgment, the fact of the admission of that testimony that reversed the judgments; we are constantly making those mistakes and being corrected by the higher courts; but that is not all, Mr. Ivins; you asked me to state the reasons why —

Q. Give the rest. A. —Why a conviction could not be secured; that was but one cause; a changed condition of public sentiment was largely another; there was a perfect tempest of excitement here at the first discovery of this aldermanic corruption, about the extent and character of which nobody on earth doubted, but when I came to try these cases, that storm had entirely subsided; the subject matter had grown to be an old one, people had largely become tired of it.

Q. The storm around your head had not subsided though, had it? A. No; I have some reason to know that it had not; there was a

changed condition of public sentiment which everyone residing in the city must now appreciate, respecting the enterprise itself; I believe that more than one-half of the taxpayers of this city were opposed at first to a railroad in Broadway, and the grant of that franchise not only incensed them by reason of the manner in which it was done, the use of money corruptly in the board of aldermen, but from the fact that the franchise was granted; there was a sentimental feeling regarding the preservation of Broadway from that which assumed to be a desecration of our old street.

Q. Right here let me interject this question, notwithstanding the manner in which that franchise was got, and although the public clamor that the franchise was not only bargained away for money to be paid to the aldermen, but was sold, so far as the public was concerned, at a price which was very much below its actual value, that franchise still exists, don't it? A. Yes.

Q. And New York city, so far as its treasury is concerned, is no better off than if this corrupt bargain had not been made? A. No.

Q. And somebody or other is the beneficiary of that situation; is not that the fact? A. That is the conclusion that every one may draw.

Q. And New York city is not the beneficiary of it, so far as the treasury is concerned? A. No; but while there was this sentiment that no railroad should be laid on Broadway, and after it had been laid and we had begun to use it, the whole public of New York came to know that, so far as our business interests are concerned, it was one of the grandest improvements we had ever had, and all those who had been an enemy of the franchise became its friends, and you could everywhere hear the statement, why should we go on longer in prosecuting men who have conferred upon the city a great public blessing.

Q. You have never heard anyone suggest going back to the days of the old omnibuses, have you? A. No; I have not; now, I had that to contend against; then I had the interpretation of the Court of Appeals, with regard to our jury law, which was, perhaps, after all, the most disheartening and disastrous thing in attempting to try these cases; in this court room I tried for two weeks, before Judge Daniels, to get one single juror, calling hundreds and hundreds to try the case of Cleary; not one man did we get, because our Court of Appeals have said that where a person has made up an opinion in regard to the guilt or innocence of an accused, from testimony which has been taken in previous cases of a like character of that which he is to hear as a juror, he is legally disqualified; he cannot be accepted; and there is not an intelligent man in the county of New York who has not read the evidence in these cases until he knows them by

heart and has thereby formed an opinion upon evidence; he is disqualified as a juror; I have no power to move the cases out of the county, and it would simply have been a wicked further expenditure, after trying three of those cases as I did; a foolish, criminal expenditure of public money, for which any prosecutor should have been removed from office to have tried them farther.

Q. Well, now, Fulgraff and Duffy lost their memory also, did they not? A. To a very marked extent; an unusual degree.

Q. Now, do you remember the means by which Duffy was first given a memory? A. I don't; Mr. —

Q. Let me ask you a question or two about that; did you ever hear of the proposed Thirty-fourth Street Railroad Company's franchise? A. Yes.

Q. Do you recollect the suggestion made that certain members of the board of aldermen had received money for their votes in that matter? A. Yes; all that came out on the trial.

Q. Did you know that Duffy and Fulgraff became witnesses for the State only after it had become known to them that it was known to your office that they had been implicated in the Thirty-fourth street steal? A. So I understood; that our office possessed the evidence of their complicity in that.

Q. Do you know that certain affidavits were then made which implicated Duffy and Fulgraff in that Thirty-fourth street business? A. I do not know it; I have heard it.

Q. Did you ever see those affidavits? A. I never did.

Q. You were told there were such affidavits? A. Yes.

Q. You were told such papers were in your office? A. Yes.

Q. After you came into the office did you ever make search for those affidavits? A. Yes; they are not in the papers.

Q. Are they in the office so far as you are able to discover? A. No.

Q. Have you ever been able to account for the disappearance of those papers? A. Except that in conversation with some of the gentlemen who were associated with me in the trial, it was believed that one of the counsel in the O'Neil case, to whom these affidavits were handed, had mislaid them or had not returned them to the files of the district attorney's office.

Q. One of the counsel in the O'Neil case? A. Yes.

Q. That is one of the counsel for the defense? A. Yes.

Q. Is it customary for the district attorney's office to give private documents of that kind — documents implicating the criminal, to the counsel for the criminal? A. In the trial it is, if they call for papers.



Q. If they are called for on the trial you mean? A. Yes, sir; that is what I mean.

Q. That affidavit was never introduced in evidence on any trial, was it? A. No.

Q. Then it could not have got into the hands of counsel for the defense on the trial? A. It was not introduced on the trial, but if it existed it was in the papers; it was part of the record.

Q. But how could counsel for the defense have got that unless they got it as right, being introduced on the trial, or as a matter of complacency from the district attorney prior to the trial? A. It so must have been received; it was generally known by the publication of the press that these statements that were reduced to the forms of affidavits of Fulgraff and Duffy were the basis upon which this prosecution proceeded.

Q. That was the basis? A. Yes, sir.

Q. And that basis disappeared from your office when you went in there? A. I have never seen it in my life.

Q. But you knew of its existence? A. Yes, sir; but I have never seen it.

Q. You knew of its existence sufficiently to swear that it was the basis? A. Various parts were assigned in these cases; of course, as you understand, the cases were of the greatest public interest, and when Mr. Martine marshaled the forces of his office to the preparation of these cases, to Mr. Nicoll was assigned the duty of sifting and preparing the evidence; with that part of the case I never had the slightest to do; I was notified from the start that I would be expected to make the summing up in these cases and to take such part from time to time during the actual trials as it might be found necessary for me to take; but with the preliminary work I had nothing to do and therefore it was not strange that this affidavit should not come under my observation; I never talked with the witness; never had the slightest conversation.

Q. Your connection with the case was confined to the trial in the court as other counsel would do after the preparation had been made? A. Yes sir.

Q. In other words you were really the senior in these cases? A. I was the counsel if I may so say; I was the counsel for the trial of the cases and not the attorney for the preparation of the cases at all.

Q. So the basis for the trial which was the affidavits which implicated Fulgraff and Duffy, and which led Fulgraff and Duffy, on finding themselves to be implicated, to become State's evidence, was in the

hands of Mr. Nicoll? A. Yes, sir; of Judge Martine, and in the hands of the office. .

Q. Not in your hands, however? A. It was in my hands, if I asked for it, but I did not; I never asked to see any of the evidence or converse with any of the witnesses.

Q. And the only explanation of its disappearance that you have ever heard is the explanation that one of O'Neil's counsel had it? A. Yes; that during the trial one of O'Neil's counsel had it and that it from that time was mislaid among the papers.

Q. Which one of those counsel? A. Well I do not care to state; I am willing to tell you privately, but I do not think I ought to be asked to say publicly.

Q. I think that you ought to; I think that you ought to tell as a matter of fact; I believe that the miscarriage in those cases was incident to the disappearance of that paper; it is for the committee to say whether you shall tell which of the counsel got that document?

Senator McNAUGHTON.—I think Mr. Fellows is the best judge of that; he knows all the circumstances of the case; I would not press the question.

The WITNESS.—You see I am not cognizant of the fact; I do not know that any counsel received a paper which disappeared thereafter, and therefore it might be a cruel injustice if I were to give any name.

Q. In other words you are under oath, and you do not want to swear to it that any person did it? A. I do not; I know nothing of it and I might do a wrong to a man by imputing any such thing.

Q. I think your position is a perfectly fair one; You know do you not that those papers implicated and involved several other parties in the city who were not under indictment? A. So I have understood.

Q. Have you not heard that those persons so implicated were persons who had held very important public offices? A. I have heard so in the way of humor; I have never heard it from any direct source that gave me any reason to know whether it was true or not; I know positively nothing about it; I have heard much.

Q. Have you ever tried to get the paper? A. That paper?

Q. Yes. A. When I came into the office and became charged with these responsibilities I made a very thorough examination of all the records in the office; I got all there was and have kept all I got.

Q. You mean you got all that were there? A. Yes.

Q. And not having been a party to the preparation of the case therefore you have no means of knowing whether there were other papers or not? A. No.

Q. There may have been other papers? A. The papers that were used upon the various trials and which formed a part of the court record in these cases were turned over to me; if there were any other papers prepared at any other time, I knew nothing whatever of them; I have never seen them.

Q. Didn't you lose one of those cases mainly because Duffy and Fulgraff seemed to have completely lost their memory of the facts? A. Yes; I should say that was one of the main reasons.

Q. Do you believe that if you had this paper, knowing its contents as you do by hearsay, and were still in custody of that document, that you would have been subject to such a loss of memory on their part? A. It might have refreshed their memories if I had such paper; the intellectual lapse on the part of those gentleman was something remarkable; I do not know as I have ever seen an intellect go to pieces as theirs did.

Q. What did you call it? A. I called it intellect, for one must use appropriate terms before the committee; where the witness told me at one hour that he would swear to a certain state of facts, that he was positive in his recollection, and as soon as he was put upon the stand forget it all, I quite despaired of the cases; nay, more, I became satisfied that no honest, just prosecutor, knowing that such things had transpired as a falsehood stated by the witness off the stand to the district attorney and his lapse of memory on the stand, that no public prosecutor was justified in going to the jury on such evidence and ask them to believe it; it was too uncertain and unreliable to convict people on.

Q. The result of it all is that Mr. O'Neil is serving his term? A. No; he is discharged now.

Q. He has served his term? A. Yes, sir.

Q. And Mr. Jaehne is serving his term? A. Yes, sir.

Q. Mr. Jaehne's case, however, was distinguished from Mr. O'Neil's because in that case you had Jaehne's confession? A. He was convicted on his confession; no other evidence was introduced except the evidence that the statute required to corroborate the allegation that the crime had been committed.

Q. And no one else has been punished among all those who made no confession except O'Neil? A. None, and I have spent seven months of my term in actual court proceedings in those cases; I think that Judge Daniels would be willing to state to the committee as he has stated to the World often, that cases were never tried with more thorough preparation than these cases were, and the failure to get a

conviction was simply the fact of changed conditions; the elimination of evidence.

Q. In other words, your predecessor in office, through Mr. Nicoll, secured certain convictions which superior courts held were improperly secured? A. Yes, sir.

Q. And you inherited these cases from them with the expectation on the part of the public that you could secure convictions legally although the convictions secured by your predecessor had been secured illegally? A. That is about it; that I was left with the cases as the Court of Appeals left them to me, and with this changed condition of public sentiment and the education of the mass of our people in regard to the facts of the case by the publications of the press; all of that rendered it impossible to get convictions; I do not know that if the cases were to be tried to-morrow by the whole array of talent of the New York bar — I simply say this that no particle of evidence that exists upon this earth could be introduced in the case that was not introduced; everything that we had knowledge of in the case that would tend to its elucidation was presented, and the district attorney of this or no other county is chargeable with getting convictions; it is his duty to present cases, to present the evidence, and it is for juries to say whether men are guilty or not.

Q. You spoke awhile ago about public clamor having been very great during the first of these trials and having subsided afterwards; is it a fact that public clamor plays a part that may contribute to the success or failure of your office? A. I am afraid it does.

Q. Is it not, in your judgment, a fact that public clamor led to the introduction by the district attorney's office, and the receipt by the court of the evidence taken by the Senate committee in those original cases, although the general feeling of the bar through the city was against the admissibility of that evidence? A. I can not answer that; I do not know; I know as to one piece of evidence that was stricken out by the Court of Appeals; I believe very sincerely, as a lawyer, that it was admissible, and I urged before the trial court its presentation; it was that action of Mr. Sharp's in Albany with a member of the —

Q. Of the lobby? A. Yes; and I believe it was admissible; I urged it; the Court of Appeals reversed for that among other reasons; I never did think the Senate testimony was admissible.

Q. Did you, among all the lawyers that you talked to at that time, find anyone who did, outside of your office? A. Well, I think the consensus of opinion among lawyers, was that it was not admissible



Q. And that consensus of opinion was very strong, was it? A. Yes; I think so.

Q. And still the newspapers were clamoring for its admission; were they not? A. That I do not know; the newspapers were doing a good deal of clamoring about various subjects; whether it was that particular subject or not, I do not know; the newspapers have a good deal to do with the formation and direction of public opinion in this city, and I am one of those who believe that the cause of justice is best administered when it is not administered in periods of popular passion and clamor; that such things as sensational trials should never exist in our courts; that there should be a perfectly clear, cool atmosphere in which to try these judicial proceedings, and weigh the question of the liability or lives of men; I have always been opposed to sensations in the trials of cases, and I suppose I have weakened my force as district attorney a great deal from that fact; I have never allowed sensational cases to be tried as such.

Q. You spoke of the difficulty you have in finding jurors in cases of this character under the ruling of the Court of Appeals; do you not have an equally great difficulty in finding a jury because of the smallness and character of our jury lists in this city? A. That is true, but —

Q. How far do you watch the operation of the jury list in this city? A. I necessarily watch them by observation, because I am called constantly.

Q. You are a party to their enforcement in such respects, are you not? A. Yes, sir.

Q. In what particular respect to their enforcement? A. Not now; under the new law the corporation counsel has absolutely the enforcement of the fines against delinquent jurors; a new law, as you know, has recently gone into operation.

Q. Do you take any part in the drawing of jurors? A. None whatever; we have nothing to do in the preparation of jury lists; it is but fair to our city government, and it is creditable to it to say that within the past three or four years there has been a very noticeable improvement in our jury lists, a very much larger number added, and certainly an infusion of a better class of people.

Q. That is under the administration of Commissioner Reilly? A. Well, whoever does it.

Q. It is during the past two or three years you say particularly? A. Yes.

Q. As compared with the time immediately prior to it? A. Yes, sir; there has been a very marked improvement noticeable in all our courts.

Q. An improvement which gives you a class of men who, generally speaking, seemed to be better qualified for the performance of the duties of jurors? A. Yes, sir; to illustrate: In the trial of McGonigal a few days ago, I examined personally four jurors, who testified, and they were all men of a marked degree of intelligence, seemingly men of character and responsibility; they all testified that although they had lived in this city for a long time, they were this year for the first time on the jury list; that has been noticeable for three or four years whenever we have summoned a jury; I should say for two years passed certainly, whenever we have summoned a jury, we have found a percentage of men who have never been placed upon our jury-list before; it shows that men are being got there that ought to have been there years ago, but who are now being put there, and it is extending the list and improving its character; there is no question about it.

Q. What are the duties of Mr. Anderson? A. Mr. Anderson is the private secretary.

Q. He keeps these books of which you speak? A. Yes; and it is he who makes up the provisional estimates; it is he who keeps account all the time of my contingent fund, so that I am enabled to know just how far I am permitted to draw on it.

Q. At whose suggestion was he appointed? A. Just let me answer this one question; it is he who receives in the first instance all the executive letters, and they are very numerous, and who prepares the replies to them, of course, to be submitted to me and to receive my signature; it is he who examines the sufficiency of the bail bond in all cases; Mr. Anderson was another legacy from Judge Martine, and a better official for the position he occupies I have never seen.

Q. Now, I find that you have here fourteen subpoena servers and one special messenger at \$1,200 apiece? A. Yes, sir.

Q. Two messengers at \$1,200 apiece and one messenger at \$750? A. Yes, sir.

Q. The first of these is John J. Carroll; for whom did you appoint him? A. I can not tell you.

Q. For whom did you appoint Thomas A. Maguire? A. I do not know the source of appointment of a solitary one of these men, save in one instance, and I can tell you that.

Q. Can you tell how you came to appoint any of those men? A. I think the most of them were there, and I continued them; I think it was Mr. Kelly, although I won't be sure; I think it was Peter J. Kelly.

By Senator McNAUGHTON:

Q. Did you prepare the list which you have? A. No.

Q. Did you ever see it before? A. No.

Mr. IVINS. — It was sent over here by Assistant District Attorney Bedford.

The WITNESS. — It is correct, so far as the roster of the office is concerned; I know these names; I have made one or two removals, and have appointed other persons in their places, but I think that nearly all of those men, if not all of them, were subpoena servers in the office when I came there, and as the political situation of the office was the same — that is, I was, as Judge Martine had been, in affiliation with one organization of the Democratic party here, and the office had been largely made up of friends of that party, I continued them.

By Senator McNAUGHTON:

Q. Which organization was that? A. That was the County Democracy.

[The list above referred to was offered in evidence, marked Exhibit I of this date, and is inserted at the end of to-day's testimony.]

Q. Do you remember how much money was paid into the city treasury from the collateral inheritance tax? A. No, sir; only the comptroller could tell that.

Q. The report of the State Comptroller shows that New York county paid the State Treasurer \$721,830.16? A. Yes, sir.

Q. That report also shows that the comptroller's fees — I now refer to the comptroller of this city — were \$10,506.96? A. Yes, sir.

Q. That the fees paid appraisers were \$6,501.45? A. Yes, sir.

Q. And that for the assistance rendered by your office in the collection of that large amount your office was paid \$110? A. Yes, sir.

Q. The proportion of fees to your office, for the services it rendered and for the expense, etc., would seem to be very greatly disproportionate to the fees received by the comptroller? A. Yes, sir.

Q. And greatly disproportionate to the large amount which was collected? A. Yes, sir; the comptroller receives a percentage.

Q. Five per cent? A. He receives five per cent up to a certain sum; he then receives a much lower percentage; but, of course, on the collection of three-quarters of a million, as is shown there, the percentage must be large.

Mr. IVINS. — The chief bookkeeper is here; he has been sworn and can tell just what that is.

By Senator McNAUGHTON:

Q. Looking at it from that standpoint, is it not your judgment that the fees of the comptroller should be reduced, in view of the large amount collected? A. No; you understand that this can continue but a very short time; these legacies will diminish from year to year; that

is, people who design to give to collateral sources certain money are very apt to do it hereafter before their death and not leave it to be distributed after death; those settlements will be made in the lifetime of the parties; I do not know as I should say that it will be diminished; what I want to say is this, that it seems to me almost a scandal that the State of New York should receive \$750,000 in a year in its State treasury from the county of New York for collateral inheritance taxes and that this county should pay all the expenses of the collection and not receive one dollar except in the case of individuals; I do not know why I should be required to pay out of this miserable pittance that is given to me for prosecuting these cases, why I should be required to pay the expense of the preparation of papers; the fund goes into the State treasury, and it seems to me that the State ought to pay the expenses of the collection, and the law ought to be modified to that extent at least; it ought to be taken out of the hands of the district attorney; he has no business with it.

Q. The district attorney of each county is obliged to prosecute cases where the taxes are not paid and he believes the taxes are due? A. Yes, sir.

Q. There is no exception with New York, is there? A. I am further inclined to agree with Mr. Ivins, that in the country counties the relation of the district attorney to the county treasurer is so entirely different from that here — the county officers; here we have a dual government; here we have our State organization; we have a distribution of our territory in counties which is the only distribution the State knows of; we have inside of that, and coequal with it in territory, a municipal government; now, I am a constitutional officer fixed by our State system and not amenable to the city government in any way or form, and yet I am to act in conjunction in certain things with a departmental officer of the city government; that makes my relation to the comptroller here very different from that of the district attorney of a county to the treasurer of a county in the country.

By Mr. IVINS :

Q. Under natural conditions the chamberlain of this county would perform those duties? A. Yes; I think the law, in that respect, so far as it relates to this county, should be changed.

By Senator McNAUGHTON :

Q. Those cases have come directly under your charge? A. Yes, sir; all of them; the volume of work has been large and Mr. Dospassos has succeeded in settling a great many disputed questions of law, so that I think the business is in excellent shape.



Q. It was the law passed in 1885? A. Yes.

Q. And it was an entirely new law in this State? A. Yes.

Q. That came, I think, from the recommendation of a board of commissioners who were asked to revise the laws? A. Yes, sir.

Q. And consequently required more attention than a law that had been on the statute books for a quarter of a century and had numerous decisions upon it? A. Yes, sir.

Q. Now, it is not unusual for the most able draughtsman, in a district attorney's office or for the district attorney himself to make an error or mistake in drawing an indictment? A. Oh, no; of course, we are all fallible and liable to make mistakes in judgment.

Q. The proportion of errors of that kind in your office has not been very large as conducted by you, as to errors in drawing indictments? A. I do not know of any.

By Mr. IVINS:

Q. It can be put in this way: Have any of your indictments been dismissed on demurrer? A. One.

Q. Only one? A. Only one; that in the case of the sheriff's officers where we indicted for bribery, and we recognized the fact that it was an exceedingly close question; it was the first time that we were called upon to interpret the statute in reference to such an act; we drew the indictment under the only section we could; we knew if that was not good no indictment could be found, and the court decided that it was not good; the indictment was good as a pleading.

Q. Did not the grand jury make a presentment on the administration of the sheriff's office? A. Yes, sir.

By Senator McNAUGHTON:

Q. Do you think that the number of indictments found by the grand jury of this city or county is entirely beyond the capacity of the courts to try? A. Undoubtedly so.

Q. And the accumulation of the cases is beyond the power of the grand jury to inquire into unless we have special grand juries; unless we could have two grand juries sitting?

By Mr. IVINS:

Q. Is there any reason why we should not? A. We will have to, if this condition of things goes on; I have hoped for remedial legislation; these cases for misdemeanors should not be tried in the Court of Sessions; we have grown to be a city of nearly 2,000,000, and the percentage of crime is in excess of the growth of our population, because

naturally a city of this character invites to it the disorderly elements from other parts of the country; they can find shelter and security here for a time in the crowded streets of our city that they can not find in similar places, and whenever a criminal is hunted down in every other part of the world and has to leave, he goes to New York, if he comes to America.

Q. I thought he went to Montreal? A. He goes to New York, and after he is indicted here he goes to Montreal; but he comes here to commit his crime; so that the growth of crime is large now; we have fourteen police justices, and we have a court of Special Sessions, and, if necessary, there can be another court of Special Sessions, and there seems no reason why this class of cases should not be tried there; then they could dispose of them, but if they are sent to this district attorney's office, with the thousands of felonies of a grave character that we have, we can not try them; it is impossible.

Q. Now, you can not interfere with the grand jury system without constitutional amendment, can you? A. No.

Q. In no form? A. No.

Q. But there is nothing which prohibits the simultaneous sitting of two or three, or four grand juries? A. No, sir; none.

Q. As a matter of fact one grand jury in this county is doing the work of a population of 1,700,000? A. Yes, sir.

Q. Whereas a grand jury of equal strength, and equal ability to work, has a population, not one-tenth or one-twentieth of its size in the other counties of the State? A. Yes, sir; apropos of that, will you let me suggest one difficulty?

Senator McNAUGHTON.—Certainly.

The WITNESS.—I can have grand juries here; there judges have always been ready to yield to the request of the district attorney, and furnish facilities for a grand jury, and the Governor will always act; but after you have got a grand jury, and you have closed up this great mass of accumulated business by finding indictments, then you have merely perpetrated another scandal, a great number of bills of accusation that we have not facilities for trying.

Q. That is increasing the number there, and above the rate at which they normally increase, as it is? A. Certainly; you have got then what is always a reflection on the city, and upon the administration of justice, a great accumulation of accusations in the form of indictments we can not try; they might better be dismissed by the limitation of the law, than to have them accumulate in the form of untried indictments; no; you have got to deal with it more radically than that; our

Legislature has got to provide new facilities for the trial of those cases here, or they can not be tried to any great extent.

By Senator McNAUGHTON:

Q. Including excise cases? A. Including excise cases, I mean; those are the larger part of the cases; where you find by reading that the police arrested eighty persons a day for violation of the excise law, you know what that means to a district attorney's office; you can understand why we can not try them.

By Mr. IVINS:

Q. Doesn't it spring from this condition of things, that the people expect an improved administration with a lower tax? A. It may be.

Q. Isn't that about it? A. Very likely.

Q. Isn't it a fact that while your office is held responsible for the failure to try the 2,000 cases that have accumulated, and that while the grand juries are not sufficient to find indictments against numberless law breakers who go untouched altogether, your office is entirely unequipped, so far as doing the volume of work in a thorough systematic way, which would really result in the actual enforcement of the law? A. It is; it is simply a physical impossibility for the district attorney's office, and the courts of this city, to try all the cases; can not be done.

By Senator McNAUGHTON:

Q. You have co-operated, always, with Dr. Crosby and his friends in any suggestion they have had to make in regard to the trial of the excise cases? A. I have; indeed, Dr. Crosby and Mayor Hewitt and myself, thoroughly agreed in what was a liberal arrangement of our excise system, and I think if our suggestions had been adopted very much of the difficulty that we now experience would have been done away with; those men who received a license from the State, and are therefore entitled to the protection of the State while they violate none of its laws, would have been in a much more comfortable position than they are now; they would have known just what was expected of them; the law would have been in every respect simplified, and we would have eliminated from it a great many of its idiosyncrasies and contradictions which now are discouragements in the way of its enforcement.

By Mr. IVINS:

Q. You have an increased appropriation over your predecessors, have you not? A. Yes, sir.

Q. Have you the figures and data to show that the results of the work in your office have been commensurate with the increase in the expenditure? A. Yes, sir; I think so.

Q. Will you give us those? A. I will; it must be remembered that one of these assistants, as I have told you — that \$7,500 is required for the matter of inheritance tax which was unknown to any of my predecessors.

By Senator McNAUGHTON:

Q. And from which the city derives no direct benefit? A. None whatever.

Q. And still has to pay the expense? A. The city has to pay the expense and turns all the money over to the State.

Q. What became of the law formulated by Dr. Crosby and that commission? A. I put it in the form of a bill; we talked it over and I put it in the form of a bill and sent it to the Legislature, and I have forgotten now to what member I sent it; it was referred to the judiciary committee; I went up there and made some arguments; I do not think the bills were ever reported from the committee.

Q. You made an argument in favor of the bill? A. Yes, sir; I do not think it was ever reported from the committee; I do not think it ever came to the Legislature proper, at all.

Q. And that was known as the commission bill? A. Yes, sir.

Q. The history of that is this: That it was referred to a committee and they made several amendments and then reported it and the amendments were not agreed to by Dr. Crosby; Dr. Crosby says he did not agree to the amendments which the Legislative committee made — it is immaterial what they were? A. Yes, sir.

Mr. IVINS.— That is all.

ISAAC S. BARRETT, recalled, further testified as follows:

By Mr. IVINS:

Q. Have you the minutes of the board of estimate and apportionment for the last four years there? A. I have not the minutes?

Q. You have the final appropriations? A. I have the final estimates.

Q. Just turn to the final estimates for those four years and state first the aggregate appropriations for the district-attorney's office for each of those years? A. For the year 1887, the appropriation for the district attorney's office, for his assistants, clerks, stenographers, subpoena servers and messengers, also including stenographer for the grand jury, was \$98,060; in 1888, for the same purpose, \$125,790; for



the year 1889, for the same purpose, \$125,790; and for the year 1890, for the same purpose, \$119,790.

Q. I find that the appropriation for the contingencies for these four years was not included in this amount, and I would like to have the amounts of contingencies during the term of these four years and we will give the aggregates? A. For contingencies of the district attorney's office, including arrearages of 1886 — that is in 1887 — \$30,000; in 1888, \$45,000; in 1889, \$25,000; and in 1890, \$15,000.

Q. Those three are sums without the appropriations made during the time of the pendency of the aldermanic cases? A. Yes, sir.

WILLIAM H. VON GERICHTEN, being called as a witness and duly sworn, testified as follows:

By Mr. IVINS:

Q. What is your business? A. Deputy chief clerk in the district attorney's office.

Q. What is your business in the district attorney's office as such deputy chief clerk? A. To assist in making up the calendars and attend to the general detail work, such as receiving writs and receiving papers from magistrates — police court papers.

Q. Colonel Fellows has testified this morning as to the general method, as he understands it, of putting excise cases on the calendar; do you make up the calendars? A. Sometimes.

Q. Are you making up the calendars now for instance? A. Not at present; no.

Q. Who is? A. Mr. Magee.

Q. Have you ever received any directions or instructions from Colonel Fellows about making out the calendars? A. Not from Colonel Fellows; I have not.

Q. From whom have you? A. From Assistant District Attorney Bedford.

Q. When did you receive instructions from him about making out the calendars? A. I think it was last Thursday or Friday.

Q. What instructions did he give you? A. He ordered me not to place any excise cases on any of the calendars.

Q. Did he give you any limit of time within which you was not to place any excise cases on the calendars? A. That order was to remain until either he himself or the district attorney rescinded it.

Q. In consequence of which you have not placed any excise cases on the calendar? A. No.

Q. There are no excise cases now on the calendar? A. No.

Q. What day did you say that was that order was given you? A. I think either last Thursday or Friday, I am not sure which.

GUNNING S. BEDFORD, being called as a witness and duly sworn, testified as follows:

By Mr. IVINS:

Q. You are an assistant district attorney? A. I am.

Q. How long have you been such? A. In 1865 I was appointed assistant district attorney under Mr. Hall; at the expiration of his term he was re-elected and he reappointed me; then when Mr. Martine was elected he appointed me; I served under his administration; when Mr. Fellows was elected he appointed me, and I am now serving under his administration.

Q. What part of the duties of the office do you perform? A. When I am an assistant my duties consist in trying cases before juries and my first duty is to acquit the innocent consequently and convict the guilty.

Q. What are you when you are not an assistant? A. When I am not in court trying cases before a jury, then it is in office work that my chief sees fit to give me; I am now acting district attorney and have been for about a week.

Q. Will you state by what warrant of law you are acting district attorney in view of the fact that the district attorney is within the jurisdiction? A. I do not know by what warrant of law; but I know that usage is considered warrant of law; Mr. Hall used to appoint me acting district attorney when he would have to go to Albany.

Q. A. Oakey Hall? A. A. Oakey Hall, and Mr. Martine has appointed persons to act.

Q. You say when Mr. Hall had to go to Albany? A. Yes.

Q. Mr. Fellows is here? A. Yes.

Q. Do you know of any law which permits any one to act as district attorney of this city and county, when the district attorney of the city and county is actually within the county? A. I know this that if the district attorney has certain duties to perform which require him from not sitting at the desk, he will tie one of us there down to work, and the McGonigal case which took me six weeks to prepare and two weeks before the verdict was rendered which is now before Judge Barrett, which was to have been argued on Tuesday to see whether he would under the statute grant a certificate staying proceedings and keeping this man in the Tombs waiting the Court of Appeals —

Q. What constitutes you acting district attorney? A. You have asked me a question I would like to answer.

Senator McNAUGHTON.—Proceed and make a full explanation.

The WITNESS.—Can I?

Senator McNAUGHTON.—Yes, make a full explanation.

The WITNESS.—Where was I, because I only want to tell the truth here?

By Mr. IVINS:

Q. I asked you a question and you are going over the face of the county?

Senator McNAUGHTON.—Let the witness make such explanation as he sees fit in regard to his view of the duties of an assistant district attorney.

Mr. IVINS.—That was not the question.

Senator McNAUGHTON.—Let the stenographer read the question.

By Mr. IVINS:

Q. The question was this; by what warrant of law he could be acting district attorney while the district attorney is in the county? A. I shall now give my explanation; it may go for nothing, or a great deal; am I permitted?

Senator McNAUGHTON.—Certainly.

The WITNESS.—After the rendition of the verdict, there was a motion made before Judge Fitzgerald to grant a new trial; I asked Mr. Fellows, as he had helped me in the case, to sum it up—I opened the case and prepared it—he summed it up—and I said, you come in here with me, and we will answer any argument if we deem it necessary; Mr. Oliver made quite a lengthy argument, and the motion was denied, and McGonigal was sentenced for fourteen years; on last Monday, I think the day I was appointed, if I recollect—

Q. Now, tell us how you were appointed? A. If you will allow me—

Q. I will stop you when I want to, to know how you were appointed? A. Well, I am coming to that.

Q. Will you come to it now? A. I am coming to it in my own way.

Mr. IVINS.—I ask the committee whether this witness is going to go on in his own way, or whether this examination is going to be conducted in the usual way, by question and answer.

Senator McNAUGHTON.—I think it is being conducted in the usual way now; he is making a full explanation.

Mr. IVINS.—I have not asked him to make a full explanation; he has said he has been appointed, and I asked him how he was appointed.

The WITNESS.—I am coming to it.

Mr. IVINS.—I want it now.

The WITNESS.—You will have it if you are patient; I am talking as rapidly as I can.

Mr. IVINS.—Yes; and you are talking too rapidly.

The WITNESS.—Then I will talk more slowly and you will have to wait longer.

Senator McNAUGHTON.—The witness seems to be fair.

The WITNESS.—Yes sir; I am very glad to have this opportunity to appear before this committee; now, I will go on again.

Senator McNAUGHTON.—Proceed.

The WITNESS.—There were motion papers brought before Judge Barrett for us to show cause why Mr. McGonigal should not have a stay, and be kept in the Tombs until the Court of Appeals could decide this case; I then said to Mr. Fellows, "I want you to prepare this case; to look up all the questions of law;" he said, "I have a great many other things to attend to about the office, and I want you then to take charge"—the expression about acting is, "sit at the desk;" that was the whole thing, and I have sat at the desk ever since, and have done my best to do what I think is right as acting district attorney.

Q. And you are now in charge? A. No, sir; I am under you now.

Q. Who is in charge? A. Mr. Fellows is waiting for me, ten to one.

Q. Does the district attorney and the acting district attorney happen to be the man who sits at the desk? A. The acting district attorney takes the desk and he is responsible for everything that occurs in that office and in the court room.

Q. Does the fact that he takes the desk constitute him acting as the district attorney? A. No, sir; but if the chief says, "Take the desk and act for me," that makes me acting district attorney.

Q. Do you then sign as an acting district attorney when the chief has asked you to take the desk? A. Why, I think I have made it plain; he told me, "You take and sit here; take the desk and conduct everything," and that makes me acting district attorney.

Q. Do you sign as acting district attorney under those circumstances? A. What do you mean by signing?

Q. Do you sign the papers that come before you? A. Yes, sir; when I am not acting, I put "assistant" district attorney, and on every other paper I put "acting" district attorney.

Q. When you are sitting at the district attorney's desk under his request, do you sign the documents "acting district attorney?" A. Unquestionably.



Q. Always? A. Every bail bond to the best of my recollection; perhaps I might put "assistant" to something, but I always endeavor to put, and I do not think I have ever made a mistake yet, that I have always put "acting district attorney," and I think I have signed fifty bail bonds in the last week, and you will see "Gunning S. Bedford, acting district attorney;" "district attorney" is always in print, and I either have to put "assistant" or "acting," because sometimes the bail bond will be brought in the General Sessions when I am trying a case, and I will just sign it, because the judge who is sitting there takes the bond.

Q. Suppose Mr. Fellows is in court in the trial of a case, and as such is acting as district attorney? A. In that case; yes.

Q. Do you sit at his desk and sign papers with the suffix "acting district attorney?" A. "Acting" district attorney, not "axing" district attorney.

Q. What is the matter with your tongue? A. I am trying to imitate you.

Q. Do you think it is any part of a witness coming here seriously, to try to imitate counsel? A. You asked me the reason, and I want to answer you everything squarely.

Q. Do you think it is any part of your business to imitate counsel? A. Perhaps I was wrong in that.

Q. I think you were? A. But I want to answer the last question, please.

Q. Now answer it. A. I will explain to you; I take all that back; we won't get mixed.

Q. You are trying to run this investigation and this examination, instead of answering questions as they are put; now I purpose to let you go ahead in your own way. A. What was the last question?

[The stenographer read the last question as follows: "Do you sit at his desk and sign papers with the suffix "acting district attorney?"]

A. Mr. Fellows is in the court for instance; he was in court, I think, five or six weeks, if I recollect, in the McQuade trial; during all that time he put me at the desk to conduct and run the business of the office, because he was, I think, from five to six weeks from the first commencement of getting a jury, until the verdict, and he was then acting as district attorney in the McQuade case, and he put me there to act as he would act if he were there, and not in the district attorney's office.

Q. Now, let me make a specific case; suppose Mr. Fellows was in court in the trial of the McGonigal case? A. We were both there; we tried that case together.

Q. Now, you are volunteering something that is not pertinent to my question and is entirely immaterial to the issue which I now propose to make? A. He is assuming a state of facts.

Q. I am assuming that Mr. Fellows is in the court in the trial of the McGonigal case or the X Y Z case or any other case, and as such is actually within the county, acting as the district attorney of the county; that you or some other assistant district attorney is in the office occupying the desk in the district attorney's room; could you or such other person so occupying that desk sign the provisional estimates as acting district attorney, do you think — I do not say that you did it; I ask you if you think that you would have the power to do that? A. May I explain?

Q. Certainly. A. On several occasions that very proposition has been made to me; but as I do not understand that particular work, I have always said I owe it to Mr. Fellows to look over those and sign it.

By Senator McNAUGHTON:

Q. You have never signed one of those under the conditions that Mr. Ivins described? A. The estimate of the office?

Q. Yes. A. Never, sir; I have always said to the persons that wanted any pay — the other day, for instance, the grand jury's stenographer's bill was something like \$200 for taking notes, and he wanted me to sign it, and I said, "no; there it is on the desk for Mr. Fellows;" I did that as a matter of courtesy; I suppose I would have the power, as you ask me, but I do that as a matter of courtesy, because I do not know about the money matters of the office; the contingent fund is always requested by the district attorney and made out and every appropriation, etc.; so I have always referred it to him as a matter of courtesy.

By Mr. IVINS:

Q. Did you, as acting district attorney, Mr. Fellows being in the city on Thursday of last week, give orders to Deputy Clerk Von Gerichten not to put any excise cases on the calendar? A. Until further orders, I did.

Q. Did you tell him not to put any on until further orders, either from yourself or the district attorney? A. I did so that if Mr. Fellows should happen to countermand me it would be all right.

Q. What was your reason for giving that order? A. I will tell you; on Monday, the twenty-first, there were 346 prisoners in the Tombs; on last Tuesday there were 364 prisoners in the Tombs; on last

Wednesday there were 356 prisoners in the Tombs; on Thursday, yesterday, there were 328; there are in many cells two prisoners, each one held there for felony; there are 120 male prisoners in the tombs; there are ten females held for felonies, awaiting the action of the grand jury and trial by a petty jury in the General Sessions; there are only 300 cells in the Tombs; the daily average of prisoners, taking them all, drunks, as we call them, and everything, average in the Tombs as inmates, 370 daily.

Q. For what period is that average made? A. It is since I was acting district attorney.

Q. That is the average since you began to act as district attorney?

A. Oh, the average has been that for two or three years, I suppose; these are the warden's figures.

Q. Well, is that average higher than the average a month ago? A. That I am not able to answer; if I had been acting district attorney then, I could answer it, for I then would see to everything; if I had been appointed I would have been able to give you the figures; the reason why I directed that no excise cases should be put upon a calendar when I was appointed acting district attorney, is, that this October term is rapidly drawn to a close, and I learn that the fact was that there were so many prisoners in the Tombs awaiting trial, and two of them in a cell, which is at least demoralizing; two in a cell, instead of one —

Senator McNAUGHTON.—What you mean is, many cells containing two prisoners?

The WITNESS.—Two prisoners in each cell; many cells containing two prisoners; thank you, that is what I mean; I then said "do not put on any excise cases, but try and put on all the prisoners, so as to relieve the cells;" now, I might state here, Mr. Ivins, that the reason that the bail cases — and I take this responsibility on myself — the reason the bail cases are not more rapidly and promptly tried, and in fact all their cases, not only the excise cases, but I dare say if you will kindly send over to our office, you will find by the records that there are not thirty per cent of bail cases tried in a month, simply because we have not got courts enough or judges enough; I say that when the Legislature will see fit to give us in the General Sessions three or more judges, so that we can take and run five branches a day, instead of three, then the people will be satisfied, because then we can dispose of excise cases and all bail cases.

Q. Will you let me see those figures? A. Yes, sir; there they are. [Handing paper to Mr. Ivins.]

Q. Now, we can not discuss the whole subject at once; we have got to take it in sections? A. All right, sir; any way you wish.

Q. Do you know what the average number of prisoners in the Tombs is daily; I mean from month to month? A. No, sir; but whenever I have been acting district attorney I could tell you.

Q. Do you know that those figures are unusually large figures, or are they just about the average figures? A. I can not say; I only came here to be responsible for what I have done and know while acting as district attorney.

Q. Do you think it was a duty of humanity on your part on Thursday of last week to have excluded any excise cases from the calendar in order that prison cases should be given preference? A. I say so, and you certainly concur with me as a law-abiding citizen, don't you.

Q. That was a duty of humanity of your office, was it not? A. That I considered to be my duty as a prosecuting officer of this county.

Q. Will you tell me why it was not done before and the prisoners allowed to be so full? A. That is a matter for others to answer; I did not put the prisoners there; I do not know what put the prisoners there.

Q. Can you tell me why a provision was not made at an earlier date to keep those excise cases off the calendar? A. I will tell you what I did in July, if you will allow me.

Q. Did you not have 100 excise cases stricken off? A. One hundred and twenty-five, I believe; but allow me to go on with the explanation; in July or August I was acting as district attorney, and we were all on a volcanic eruption of a riot; the Central road had struck and it was reported to me that the surface roads were going to strike, and the grand jury—in the first place, bail cases are rarely ever sent to the grand jury in July or August; the presiding judge as part of his grand jury charge tells the grand jury that there is only one branch in July and August, all the other months three, and therefore the court is held open, for the relief of prison cases, and that they should take up the prison cases and no bail cases; bail cases are never tried before a petty jury in July and August; I was sitting there, and the grand jury wished 100 or 125 cases put on; as soon as it was brought to my notice—even the subpoenas were made out—I said, no; well, why not? I said no, for this reason, that there is a strike going on and at any time a riot may break out with the New York Central and the surface cars; there may be a riot; 125 excise cases require 125 policemen to be brought down to the grand jury on one and the same day, and I would not take the risk in those days, where we did not know



what an hour might bring forth; I would not allow 125 policemen to be brought down on one particular day during that strike; but I believe, if I remember correctly, there were fifteen or twenty cases before the grand jury, and I think they dismissed all but three on the ground that they were not legal arrests, if I remember aright.

Q. Let us get the date right; you are perfectly confident that this was all as incident to the strike of the employes of the Central railroad? A. I am positive that if there had been no strike I would have told the jury it was a very peculiar thing to put 125 excise cases on in July or August.

Q. Well, now, is it not the fact that that strike occurred in its initial stages about between the twenty-second and the twenty-fifth of August, and that only assumed its most dangerous shape after the beginning of your September term? A. I do not know, sir; I do not carry dates.

Q. Now, is it not a fact, that you ordered those cases struck off the calendar only within the past five or six weeks? A. What is this?

Q. Those 125 cases? A. It was during the strike; it was before the strike was settled.

Q. That was during the past four or five weeks, and not in June as stated? A. I beg your pardon, I said July or August.

Q. Well, the strike began in the last end of August and it assumed its most dangerous aspect the beginning of September? A. That was the time; I do not think I said June; I said July or August.

Q. It is possible that I was in error about your saying June? A. Very well.

Q. Do you ever receive a written designation as acting district attorney? A. An appointment in writing?

Q. Yes. A. No, sir.

Q. Well, suppose the question were to be raised as to whether or not you signed by authority, it being shown that Mr. Fellows was in the city at the time, how would it be possible to prove that your act was an authoritative act, Mr. Fellows being here in the performance of the duties of his office, and you signing as acting district attorney? A. Well, there are six on Colonel Fellows' staff; I have the honor to be one of those six; and I believe the first thing each one of those six must do is to obey orders without questioning the authority, and I obey orders when he tells me to take that desk and act; that is all I have to say; and whether the question will be raised whether I could act or not, that is for a higher tribunal.

By Senator McNAUGHTON:

Q. It never has been raised? A. No, sir; not for twenty-five years.

Q. Has that been the practice for twenty-five years? A. Yes, sir; under Mr. Martin and Mr. Oakey Hall, and I served two terms.

Mr. IVINS.—Is that any reason why it should not be raised if it should be found to be irregular?

The WITNESS.—Certainly not; you can raise any question.

Adjourned to Tuesday, October 28th, at 11 A. M.

EXHIBIT I — OCTOBER 24, 1890.  
DEPARTMENTAL ESTIMATE FOR THE YEAR OF 1891.

2692

[SENATE,

NAME.	Residence.	Official designation.	Salary per annum.
John R. Fellows .....	152d street and Boulevard .....	District attorney .....	\$12,000
John W. Goff .....	679 East 135th street .....	Assistant district attorney .....	7,500
Gunning S. Bedford .....	66 Fifth avenue .....	Assistant district attorney .....	7,500
McKenzie Semple .....	129 East Twenty-third street .....	Assistant district attorney .....	7,500
Vernon M. Davis .....	109 West 129th street .....	Assistant district attorney .....	7,500
Benj. F. Dos Passos .....	43 West Eighty-second street .....	Assistant district attorney .....	7,500
A. D. Parker .....	842 East 164th street .....	Assistant district attorney .....	7,500
John D. Lindsay .....	106 West 133d street .....	Deputy assistant district attorney ..	4,500
Wm. Travers Jerome .....	33 West Nineteenth street .....	Deputy assistant district attorney ..	4,000
A. H. H. Dawson .....	122d street and Seventh avenue .....	Deputy assistant district attorney ..	4,000
Henry D. Macdona .....	4 East Forty-ninth street .....	Deputy assistant district attorney ..	3,500
Henry Hartman .....	322 West 157th street .....	Deputy assistant district attorney ..	3,500
Edward Grosse .....	140 East Sixteenth street .....	Deputy assistant district attorney ..	3,500
Charles J. McGee .....	472 Sixth avenue .....	Deputy assistant and chief clerk ..	3,000
David Anderson .....	2414 Second avenue .....	Secretary and recognition clerk ..	2,000
Wm. H. Von Gerichten ..	31 Dominick street .....	Deputy chief clerk .....	2,000
George C. Banzar .....	439 East Twenty-second street .....	Grand jury clerk .....	1,500
Andrew Fay ..	83 Madison street .....	Stenographer .....	1,500
Henry Alexander .....	46 Dominick street .....	Clerk .....	1,200
John Huntley .....	150th street and Tinton avenue .....	Clerk .....	1,200
Terrence J. McManus .....	161 East Fifty-seventh street .....	Indictment clerk .....	1,200
Henry Merzbach .....	270 West Thirty-seventh street .....	Clerk .....	1,000
John W. Reilly .....	3 Bank street .....	Clerk .....	1,200

Florence Gould.....	624 East 145th street .....	Typewriter.....	1,000
John J. Carroll.....	245 Clinton street .....	Subpoena server .....	1,200
Thomas A. Maguire.....	388 East Fourth street .....	Subpoena server .....	1,200
Jacob Dubert .....	161 Essex street .....	Subpoena server .....	1,200
Charles J. Lyons .....	656 Second avenue .....	Subpoena server .....	1,200
Abraham Marks .....	435 Grand street .....	Subpoena server .....	1,200
James H. Driscoll.....	29 City Hall place .....	Subpoena server .....	1,200
William Gallagher.....	207 Hester street .....	Subpoena server .....	1,200
Peter J. Boylan.....	239 East Fifty-fourth street.....	Subpoena server .....	1,300
Cornelius Leary .....	27 North Moore street .....	Subpoena server .....	1,200
Eugene S. Isaacks .....	113 West Fifty-sixth street .....	Subpoena server .....	1,200
Jacob Schaeffler .....	195 East Houston street.....	Subpoena server .....	1,200
James Smith .....	304 East Thirty-Eighth street .....	Subpoena server .....	1,200
Daniel Sheehan.....	229 East Eighty-second street.....	Subpoena server .....	1,200
John J. Madden .....	325 West Twenty-first street .....	Subpoena server .....	1,200
George J. Radford .....	Central Park Casino .....	Special messenger .....	1,200
Oscar A. Baere .....	256 East Thirty-third street.....	Messenger .....	1,200
Peter J. Kelley .....	20 Vestry street .....	Messenger .....	1,200
John H. Donohue.....	233 East Twenty-eighth street.....	Messenger .....	750
Total .....	.....	.....	\$119,150



NEW YORK, *October 28, 1890.*

Present — Senators McNaughton, Ahearn, Birkett, Deane (Fassett later).

Mr. IVINS.— If the committee please, I, acting in behalf of the committee, yesterday afternoon visited the board of police and notified the commissioners that the investigation of their department would be taken up to-day, and incidentally I asked them if they would allow the committee to use the large room in that building for the conduct of this particular investigation, inasmuch as it would very much facilitate the work of the committee, in my judgment, and cause them the least inconvenience under all the circumstances; and I understood from the gentlemen that there would be no objection to that —

Commissioner McLEAN.— Not only that, but we said we would accord it to you with pleasure.

Mr. IVINS (continuing).— And the commissioners then said that when we met this morning they proposed to make a motion for an adjournment of this investigation, so far as their department was concerned. That being the case, they being here, I have nothing further to say until they are heard from.

Senator McNAUGHTON.— Well, the commissioner will state the case.

Commissioner McLEAN.— My recollection of what we said to your counsel was practically this: That while we were unwilling to delay the investigation in anywise, we were quite ready to have the investigation proceed at once; that it came at a time scarcely opportune for us, inasmuch as the new election law, chapter 262, Laws of 1890, requires very constant attention from ourselves. We presume that the members of the committee are even more familiar with that law than ourselves, because they knew about it earlier and passed it. But it constrains us now to give almost unremitted attention to it. You are aware that to-day is the day when the ballots, the sample ballots of a different color from the original, are to be ready. The law constrains us not only to examine those ballots in effect, but it also constrains us, whenever we discover any defect or anything wrong about them, to immediately correct it. The number of ballots to be issued throughout the city is very large. Although the county clerk has certain duties, and the printer has certain duties really in respect to that, we each of us have practically to be responsible for the correctness of those ballots. Then the equipment of the several voting places must be looked after. The equipment for the registration is one thing and the voting is another. We not only have to put these booths there, but we have to provide guard rails and everything of that kind. In fact the requirements of the statute are in many respects

so novel that each new perusal we discover something which must be looked after which we had hardly taken into due consideration before. So each of the commissioners — for I speak for Mr. Voorhees, who is now absent looking after some of the details, especially as to the detail of the voting places, as well as Mr. McClave and Mr. Martine and myself — each of the commissioners is quite willing to defer to the judgment of the committee, and to present himself before the committee for examination. But we state this to you so you can determine for yourselves whether it be opportune to continue the examination at this time.

Mr. IVINS.— In your judgment, Mr. McLean, would the calling of any one commissioner, the investigation being held at police headquarters, seriously retard the work of the board or interfere with me?

Commissioner McLEAN.— For myself, I am not going to set up any matter of judgment. I am going to leave it entirely with the committee.

Mr. IVINS.— But that would be the question, would it not, for the committee to determine. If the calling of any one witness — and of course we would never have more than one witness on the stand at a time — were to be a serious drawback for the proper performance by this board of its duties, I for one should advocate the position taken by the commissioners themselves. If, on the other hand, it is possible, without interfering with the work of that board, to have one commissioner on the stand to-day, and another for another day, and so on until the commissioners have been examined, and in that way a basis laid for the more complete and thorough investigation of the department in detail, all without the actual interference with the proper performance by the board of its duties, then I see no reason why we should not go on. If, on the other hand, the calling either of Mr. McLean for a day, or the calling of Mr. Voorhees for a day, were going to interfere with that work, prevent necessary steps being taken to carry out and enforce these provisions of the ballot act, then, it seems to me, that the committee would have no recourse whatever, except to grant the application for an adjournment. I think it all depends on that one question as to whether or not Mr. McLean's being on the stand, or Mr. Martine's being on the stand, is going to interfere with the work of the board as a board and the commissioners as a body.

Senator McNAUGHTON.— Well, Mr. Ivins, it seems to me to be very proper if one commissioner was examined that the other should be present. They have no means, except through the public press — and the reports are not very full — of ascertaining what has or has not been testified to, and in all the proceedings here where certain depart-

ments have been examined, other members of the department have been present and listened to the testimony.

Commissioner MARTINE.—Very natural that we should be present at the examination of any one of the commissioners.

Senator McNAUGHTON.—So that it would seem to me that if one were to be present the others naturally should be present to enable them to shorten their testimony when they came on the stand and avoid long explanations.

Mr. IVINS.—The only question, it seems to me, is the question, whether or not the conduct of the investigation at this time is going to seriously hamper them in their work. If it is, certainly no one has a deeper interest in the successful operation of this new ballot reform law than I myself have—than this committee has. There is no individual in the community, in the police board, or anyone else who takes a greater interest in that than any single one of the members of this committee, and necessarily because it is the greatest of all public duties now devolving upon the city government, possibly upon any department of the State.

Commissioner McCLAVE.—Mr. Chairman, as a member of that board, that commission, and of a different political complexion from my colleague who has made this motion, I desire to say that I fully concur in everything that he has said in connection with this matter; and I further desire to add that while the board of police commissioners will be very glad indeed to receive with open arms this committee and afford them every possible convenience that it is possible for them to grant them to enable them to perform the duties which have been assigned to their lot, yet we do believe that at this particular time, owing to the peculiar embarrassments and circumstances connected with the new ballot reform law, that certain duties are devolved upon the board of police commissioners that would make it absolutely improper for this committee to go on with this examination at this time. I do not believe that it would be possible for us to be able to give the attention requisite to an examination of that department prior to election, without placing ourselves in a position where we ourselves would be subject to criticism, because of the fact that we were not performing the duty which we were directed to do under this new law. And I believe further, Mr. Chairman, I believe that if this committee should undertake to force this department to go to an investigation at this particular time, right in the midst of this election, that they themselves would be subject to a criticism which I am not sure that they would not be deserving of, and we ourselves would be subject to a criticism, because we are not able to perform the duty which

the law assigns to our lot. And I do hope that motion which has been made by the president of our board—that while speaking for ourselves personally, as individuals, we have no desire to postpone for one hour this investigation, yet, as public officials, having certain duties to perform, that we do feel that this investigation should be postponed until a reasonable time after election.

Mr. IVINS.—At what time after the election, if it be postponed, will the board be in a position to go on actively prosecuting the investigation from day to day until it is completed.

Commissioner McLEAN.—Any day that suits the committee. On Wednesday morning.

Senator McNAUGHTON.—I understand the application is not made with any view to retard the examination otherwise than as their official duties in connection with the new ballot reform law requires their attendance otherwise.

Commissioner McLEAN.—If the committee please, I prefer it should not be an application from us. My own intention was merely to state, for the advisement of the committee, the facts of the case and leave it to the committee to pursue the course which in its own responsibility it being proper. So far as the commissioners are concerned, if the committee decide to go on, we are here, at least so far as I am concerned; I shall make no application on motion to the committee.

Senator McNAUGHTON.—That I understand to be the case; that you make no motion to have your examination postponed until some subsequent day, but you make a statement of facts, and upon that you leave it to the committee to decide what is best to be done.

Commissioner McLEAN.—Entirely.

Senator McNAUGHTON.—Of course, we all know the embarrassment that proceeds from the new ballot law. The scores of interpretations given to it by the Attorney-General, given to it by the public press and by lawyers throughout the country, and by judges, would lead almost any one to know that the questions arising are very embarrassing and that it involves an entirely new system of voting, and one that will require your particular attention in this city. And, speaking for myself, I can see that it would be unjust to you to ask that you be present at this time. I can see further from my standpoint that when your examination proceeds, it would be proper for all to be present, shorten labors.

Commissioner McLEAN.—The examination of one would be practically the examination of all.

Senator McNAUGHTON.—Yes. And after conferring with Senator Deane —



Mr. IVINS.— If you will pardon me a minute. I would like to call the committee's attention to this fact: If this committee were to see fit to aid the police commissioners themselves in the enforcement of the ballot law by calling some of their captains for the purpose of discovering what work has been done by those police captains themselves, in order either to prevent fraudulent registration and ascertain what steps have been taken to prevent fraudulent voting on election day, whether or not the calling of such captains would in any way interfere with the performance of this board of the duties to which it had referred.

Senator McNAUGHTON.— Mr. Ivins, has there been any charge that there has been any attempt made — ?

Mr. IVINS.— The charge has not only been made, but I now have in my possession a list of 600 lodging-houses in this city, and from one of those lodging-houses a police inspector has told me that there are thirteen persons registered, although there is not a bed in the house. And I have heard of other cases of the same kind in the list of 600 houses. Nothing can be more important in this investigation than the discovery in the manner in which the police officers enforced the laws with regard to registration, and the law with regard to voting, so far as lies in their power. It is one of things that has necessarily to be considered by this committee in an investigation of the police department before that investigation can be properly concluded. Now, the question arises, will refraining from calling the police commissioners at this time, and refraining from the calling of inspectors at this time, necessitate also the refraining from calling captains and sergeants and others in the precincts who ought to have, if they have not, knowledge of the condition surrounding this as well as all other elections held in their precincts, as incident to these complaints.

Senator McNAUGHTON.— This is the intimation that I have had of any charges of that kind. It seems to me it would be better to have an executive meeting of the committee, either this afternoon or to-morrow morning, and submit to them such proof as you have of that and let them consider then what is best to be done.

Mr. IVINS.— That is entirely satisfactory to me. The only question is this: Whether or not calling some of these sergeants and calling some of these captains would also fall in the field of argument presented by the commissioners with the work of the board by calling the commissioners at this time.

Commissioner McLEAN.— The instance which my friend the counsel has mentioned, is merely one of those discoveries which are made under the common practice of the board prior to every election, to

a very rigid scrutiny of the registration and of the readiness of voters so as to discover instances of this kind which are certified to as promptly as possible to the other authorities, so that they shall there be presented and the persons punished. I think, if inquiry should be made, very many more instances of that kind would be found. The board of police regularly, before every election, requires such examination to be made and such scrutiny to be had, so that any false registration or any attempt to evade the laws relative to registration and voting shall be discovered and prevented.

Senator McNAUGHTON.—Those matters are reported to you by the police sergeants and captains, are they not?

Commissioner McLEAN.—Some of them are; they go to the superintendent under the general authority of the board that this investigation shall be made and steps should be taken to suspend the violation of the law on the one hand and looking toward the punishment of the offenders on the other.

Mr. IVINS.—So far as that question is concerned, I think your suggestion, that if it be left to the committee to decide in an executive session whether that shall be taken up as a partial investigation for the time being of the police department, would entirely cover the case. In view of what has been said by the police commissioners themselves as to the possible interference with their most important work, if they be called away from it, I for one shall interpose no objection whatever to the granting of their motion.

Commissioner McLEAN.—It is not a motion.

Mr. IVINS.—Well —

Commissioner McLEAN.—Decision upon statements made.

Senator McNAUGHTON.—They make a statement of facts, and upon that they asked us to postpone.

Mr. IVINS.—To the delay of this inquest, so far as concerns their department, until after election is over, so far as concerned their department, other than I have specifically referred.

Senator McNAUGHTON.—Would you care, Mr. Commissioner, to express an opinion in regard to subpoenaing the police captains and sergeants, about interfering with their duties, which you have prescribed and which they are now carrying out?

Commissioner McLEAN.—If they were subpoenaed as a whole it would, but if there be any such specific things as the counsel has mentioned which the committee would deem it wise to look into, we are perfectly willing that that should be done, taking the persons one by one instead of making a wholesale subpoena of a large number of persons, withdrawing them from their other duties.

Senator McNAUGHTON.— That we can take up in executive session.

Mr. IVINS.— We can arrange to call one captain at a time, and possibly subpoena two or three sergeants at a time, so that the committee should not be without witnesses.

Commissioner McLEAN.— I see no objection to that.

Mr. IVINS.— And further than that the committee may determine not to take that matter up at all; but I simply at this particular time call those facts to the attention of this committee, because, as I say, I have had certified to me over 600 houses from which it is charged there has been fraudulent registrations and from which it is charged, there is proposed to be fraudulent voting in a very large number, and concerning which it is also charged the necessary preliminary steps have not been taken by the police to prevent this registration, particularly in view of the fact of this recent census, which shows that from these various houses in which the census shows there are only two or three or four residents for the purpose of the census, there now appear to be a large number for the purpose of registry and voting.

Senator McNAUGHTON.— Which census do you refer to?

Mr. IVINS.— The census taken by the mayor and by the police department.

Commissioner McLEAN.— If it please the committee—we have detained the committee longer than we have intended to—but if the committee or its counsel can show us in anywise that the measures which the board has taken or are taken for the prevention of the violation of the registration of election laws, and the new ballot act are inactive we shall be very grateful to the committee for pointing them out. The inquiry is made as systematically as our arrangements will permit as to such false registration. The way in which they are prevented is not usually made very public, but I will say as one thing which usually escapes the attention, that a large number of warrants are prepared; they are issued and ready for services upon the person in case they appear on election morning or on election day, prepared to vote. The members of the committee are well aware that a person can put this vote in if he pleases to swear it in, if he will incur the pains and penalty of perjury, he can have his vote put into the ballot box, but the retribution follows immediately after the service of the warrant in most cases.

Senator McNAUGHTON.— Well, it may be necessary for one of the members of the board of commissioners to meet with the committee when they are in executive session, to make such suggestions as they see fit, and I suppose it will be convenient for you if we notify you to meet with us.

Commissioner McLEAN.—Yes, sir, undoubtedly; I suppose one of us can be present on that occasion.

Mr. IVINS.—I think it would rather be more important if one of the commissioners, in case this committee in executive session decides to take up this matter, that then, after having so decided, in case it does so decide, it would be more important to have one of the commissioners here for ten or fifteen minutes to explain in general terms what steps are taken by the board for the purpose of preventing the commission of this sort of crime, in order that may be spread upon our minutes regularly as testimony, and as a point of departure for the investigation or inquiry; but it will not take longer than fifteen or twenty minutes in my judgement, of any one of the commissioners.

Senator McNAUGHTON.—Yes, but if the commissioners were to be possessed of the facts which you suggest, then they make some —

Mr. IVINS.—The assumption, sir, is that they are not only possessed of many more facts than I have. That is the assumption in many cases, although I have found out during the past six months that in many cases it is very much easier for me to come in the possession of facts, apparently, than it is for the police board to.

Senator McNAUGHTON.—That remains to be seen.

Commissioner McLEAN.—This is getting to be desultory, but we would be very pleased to assist the committee and supplement the efforts of the committee in making use of all the facts we have, in regard to the maintenance of the statute, and the prevention of the violations of the law.

Senator McNAUGHTON.—Upon consultation with the members present, we decided unanimously, I believe, to postpone the examination of the police commissioners until after election; although the day is not yet fixed, but until after election at all events.

Mr. IVINS.—That is, as a department?

Senator McNAUGHTON.—As a department; yes.

Commissioner McLEAN.—Then we will retire, and if the committee desires to have any one present —

Senator McNAUGHTON.—We will notify you.

Mr. IVINS.—If the committee please, I have subpoenaed no other witnesses for the day, and expected that the entire day would be taken in the examination of the president of the board of police, and the adjournment having been granted, I have no other witnesses here to call before the committee. Such being the case, I suggest that we adjourn until to-morrow.



Senator McNAUGHTON.— Before we adjourn to-day, I should like to call the attention of the committee to a circular which I received by mail; this is a copy of it. It may be proper to spread that information upon the record. I do not take any notice, very much, of anonymous communication, but this seems to be from a party—

Mr. IVINS.— Is that the circular from Mr. Laird?

Senator McNAUGHTON.— Yes.

Mr. IVINS.— Mr. Laird—if the committee wish, I will subpoena Mr. Laird for to-morrow morning. The proper way, Mr. Laird, to testify before this committee, as the proper way for any one to testify before it—I notice that this is a letter which appears to be a “round robin” written to divers newspaper editors, to the Senate committee, to counsel and others—if Mr. Laird has anything to say, I think it is entirely proper that he should come here and say it under oath.

Senator McNAUGHTON.— Well, Mr. Laird has done in this particular what fifty other people have done—have called the attention of the committee to certain things, and when the attention of the committee was called to it, they have usually followed it up.

Mr. IVINS.— And in every case where that has been done, it has been followed up by calling the party himself in the first instance, the party complainant.

Senator McNAUGHTON.— Not in every instance.

Mr. IVINS.— Well, I know of none.

Senator McNAUGHTON.— Well, I know nothing of the facts connected with the circular except I have the circular itself, but it seems to be something worth calling attention to.

Senator FASSETT.— You can subpoena Mr. Laird, and bring him here, Mr. Ivins. We will adjourn till to-morrow morning at 11 o'clock, and in the meantime the meeting will go into executive session.

Adjourned to October 29, 1890, at 11 o'clock.

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NEW YORK, *October 29, 1890.*

Present—Senators Fassett, McNaughton, Ahearn and Deane.

Senator FASSETT.—Are you ready to proceed, Mr. Ivins?

Mr. IVINS.—Yes.

Mr. FINDLEY.—Mr. Chairman and gentlemen of the committee—

Senator FASSETT.—One moment; what is the name, please?

Mr. FINDLEY.—I am Mr. Findley, counsel for the fire department; I am informed that it is the intention of the committee to take up the matter of the fire department this morning. Mr. Purroy, the president of the department, wished me to say to the committee that

although he has not been formally subpoenaed to appear here this morning, he is before the board of estimate and apportionment in the mayor's office, and will attend at any moment before the committee if his presence here is desired, and you send word to him. Mr. Eickhoff and Mr. Robbins are there also, and will attend at any time the committee desires their presence.

MR. IVINS.—We will send for one at a time. It is not necessary for all to be here at once. We will send for Mr. Eickhoff first.

MR. FINDLEY.—I would, if the committee please, beg the privilege of being permitted to appear before your committee on behalf of the fire department, and to ask any questions that seem to me necessary in order to throw any light upon the subject.

MR. IVINS.—Mr. Findley stands in a different relation from that which has been occupied by most of the counsel that have appeared here before the committee. He is the official counsel of the fire department, and as such, I, for one, would welcome his help.

SENATOR FASSETT.—There is no objection whatever to his appearing here, but I do not know whether he has noticed in what way the committee has heretofore permitted counsel to attend; that is, it must always be remembered that counsel is here by the courtesy of the committee to assist the committee, and not in any manner in the capacity of lawyers who attend court to try cases.

MR. FINDLEY.—I understand that the department is not on trial, and that I am simply here for the purpose of assisting the committee.

SENATOR FASSETT.—We do not want to fall into any error in that regard, and I think you can be very useful to us.

MR. FINDLEY.—I understand that, Mr. Chairman, and will be pleased to assist the committee in any way.

HENRY E. TATE, recalled.

By Mr. IVINS:

Q. I asked you to prepare a statement showing the total payments made from January 1, 1884, to May 1, 1889, on account of the fire department for apparatus furnished, materials furnished, supplies, labor, etc., in sums exceeding \$100 at one time, but not including payments on account of contracts for building new engine-houses or rebuilding old ones; have you prepared such a statement? A. Yes, sir.

Q. This is the statement [handing paper to witness]? A. Yes, sir.

Q. This is the summary [handing paper to witness]? A. Yes, sir.

Q. This is the summary of the statement? A. Yes, sir.

Q. And this is a detailed list of vouchers of each of the parties to whom payments have been made [handing paper to witness]? A. Yes, sir.

[The two first papers marked respectively Exhibits 1 and 2 of this date.]

Mr. IVINS.—The detailed statement, which is summarized in the other two, I will simply keep for the purpose of reference, but will not spread it upon the minutes, because it is entirely too voluminous, and there is no necessity for it.

Senator FASSETT.—What are they?

Mr. IVINS.—Simply a list of vouchers.

Senator FASSETT.—You do not care to make an exhibit of these?

Mr. IVINS.—No, sir.

Senator FASSETT.—You just introduce that for the purpose of reference and investigation further on?

Mr. IVINS.—Yes, sir.

Senator FASSETT.—I think it is just as well as to cumber up the minutes.

Q. From what sources are the lists and these statements made? A. They are taken from copies of the *City Record*, which contain quarterly reports of the auditor of warrants paid for the quarter.

Q. And these are correct transcripts and summaries of these particular items? A. Yes, sir.

ANTHONY EICHKOFF, called as a witness, being duly sworn, testified as follows:

By Mr. IVINS:

Q. Mr. Eichkoff, what is your business? A. My present business is that of fire commissioner.

Q. Is that your only business? A. That is my only business.

Q. And you are now devoting yourself entirely to the affairs of the fire department? A. The fire department.

Q. How long have you been a fire commissioner? A. Since, I believe, the 3d of May, 1889.

Q. What was your business before you became a fire commissioner? A. A journalist.

Q. Connected with what newspaper? A. With the *New York Staats-Zeitung* — no; immediately before that I was fifth auditor of the treasury at Washington; four years previous.

Q. And prior? A. Prior I had been correspondent of the *New York Staats-Zeitung* at Washington.

Q. How long had you been correspondent of the *New York*

*Staatz-Zeitung* at Washington? A. Since 1880 or 1881; I do not know exactly when.

Q. So that as correspondent at Washington and fifth auditor of the treasury, you had been out of the city for some eight or nine years?

A. Well, when I was acting as correspondent, I was only out of the city during the sessions of Congress, and was in the city hall all the rest of the time, my family being here all the time.

Q. Had you, prior to your appointment as fire commissioner, paid any special or particular attention to the question of municipal government, or to the question of fire management, in particular?

A. Well, as to the question of municipal government, I have been paying attention to that for many years, because I had been a newspaper man up to the time I went to Washington, in this city ever since 1850.

Q. Well, had you paid any special or particular attention to the work and problems of the fire department? A. No special attention.

Q. Had you any particular or expert knowledge of this or any other fire system? A. I had no expert knowledge.

Q. Did you have any particular knowledge of the building trade, or of problems of construction? A. Problems of construction; no; but I had devoted a good deal of attention to buildings, special repairs to buildings.

Q. Had you at any time had any charge of large bodies of men, directly handling or organizing them in their work? A. Not except in newspaper work.

Q. Were you a member of Tammany Hall at the time of your appointment, Mr. Eichkoff? A. No, sir.

Q. Will you now explain in general terms to the committee, in your way, what you regard as the duties of a fire commissioner, and having explained the duties of a fire commissioner generally, explain generally the organization and system of the fire department? A. Well, the duties of a fire commissioner I consider are to watch carefully over the working of the various bureaus as far as he can; a good deal has to be left to the bureau — to investigate any complaints that might be made against any officer or any bureau, to investigate cases of violation of the discipline as far as the uniformed force is concerned.

Senator FASSETT.—Mr. Ivins, is this a civil service department?

Mr. IVINS.—Yes.

Q. This is one of the departments which fall within the operation of the Civil Service Laws, is it not? A. Yes, sir; certainly.

Senator FASSETT.—Are there any appointments made that are not subject to the operation of the Civil Service Laws? A. Yes, sir.



Q. All of the appointments, as I understand it, to the uniformed force, are made under the operation of and subject to the provisions of the Civil Service Laws? A. Yes, sir.

Q. There are some places in the department which are not so subject to the operation of the Civil Service Laws? A. Yes, sir.

Q. Now, Mr. Eichkoff, you were about to say that part of your business was to investigate violations of the discipline? A. Yes, sir; when charges are made against members of the force.

Q. And what else? A. Well, my especial duty was, besides that, to investigate as to necessity of repairs when such necessities were reported to me, to go to the various engine-houses and see as to the necessity for them; the estimates for the repairs are then made out by the superintendent of buildings, and his estimates are handed to me for approval, and when repairs were ordered I would go there from time to time to see how they were getting on, and when the work was finally finished, I would make a note of that.

Q. Well, what else? A. Besides that, I have charge of the relief fund, listen to any complaints that may be made against any member of any bureau.

Q. Now, have you described, as fully as you care to, the duties of a commissioner? A. And act as a bureau officer.

Q. What do you mean by that? A. Well, I mean to attend to business as it comes up in the bureau.

Q. In what bureau? A. In the bureau of the fire department.

Q. Oh, in the main office? A. In the main office; yes, sir.

Q. I supposed you were speaking of one of the subordinate bureaus? A. No, sir; in the main office.

Q. So that you are in constant attendance at the main office? A. Yes, sir.

Q. As a commissioner who is continually present? A. Yes, sir.

Q. What are your office hours, Mr. Eichkoff? A. I am generally there from 9 o'clock in the morning until 1 or half-past 1 in the afternoon, and then I take my lunch and examine the houses

Q. How does the fire department perform its business; by the board acting as a board? A. Yes, sir.

Q. Or by the imposition of this business upon individual commissioners as committees? A. Well, yes; part of it; as I said before, the repairs of buildings are first referred to me, but then afterwards to the board.

Q. How often do you have board meetings? A. The regular meetings are once a week; sometimes there are special meetings.

Q. What did you say the regular meeting day was? A. Every Wednesday.

Q. How long do these meetings last as a rule? A. Well, that depends upon the amount of business before the meeting; sometimes one hour, sometimes three hours, sometimes more.

Q. Do you have special meetings frequently? A. Not very frequently, only when occasion requires; when something comes up which requires immediate attention.

Q. Is it the custom for the commissioners to go to headquarters every day? A. Well, it is my custom, and I can not say as to the others, because I do not know whether they are there or not.

Q. Do you see your fellow commissioners there every day? A. Not every day, because I do not watch them.

Q. You have no occasion to see your fellow commissioners have you, except on the regular meeting days? A. Except regular meetings, or when special meetings are called.

Q. Otherwise the commissioners might be in the building, or they might be in Washington or in Albany, and you would not know it? A. Yes, sir.

Q. Now, you have told us what special work had been assigned to you; tell us what special work is assigned to Mr. Purroy? A. Well, would it not be better to ask him?

Q. No; I want each member of the board to state; you are a commissioner as well as he; I shall not ask you how he performs it, I only ask you what special work is assigned to him, that is all? A. Well, he is an ex-officio member of those other committees.

Q. What are the so-called other committees? A. They are for buildings and apparatus and telegraph.

Q. I find in the report for the year of 1890, and which is dated March 15, 1890, that Commissioner Robbins was appointed chairman of the committee on telegraph and supplies? A. Yes, sir.

Q. Is he still chairman of that committee? A. Yes, sir.

Q. That you were appointed chairman of the committee on buildings and apparatus? A. Yes, sir.

Q. Are you still chairman of that committee? A. Yes, sir.

Q. Each committee consists of the whole of the board, does it not? A. Yes, sir; I am chairman of my committee and am supposed to attend to all of it.

Q. But each committee is a committee of the whole of the board? A. Yes, sir.

Q. Now, do you have regular committee meetings? A. Only when occasion requires it, when anything comes up that requires — yes; the reports are passed upon and the accounts are passed upon by the committee as a whole.

Q. By the committee as a whole? A. Yes, sir.

Q. Is that done by calling the committee together in meeting? A. Yes, sir.

Q. And passing a resolution? A. Yes, sir.

Q. And does each committee keep minutes of its proceedings as a committee? A. Not as a committee.

Q. Not as a committee? A. No, sir.

Q. Now, when do these committees meet; simultaneously with the meeting of the board? A. Yes, sir; sometimes they have a little special meeting.

Q. For the purpose of these committees meeting the board resolves itself into a committee of the whole of telegraph, or supplies, or on buildings or apparatus, as the case may be and passes its resolutions? A. No special resolution is passed.

Q. No special resolution is passed? A. No; not as a committee of the whole.

Q. But these committee meetings are not held separately and distinctly from the general meetings of the board? A. No, sir.

Q. Now, Mr. Purroy, you say is a member ex-officio of both those committees? A. Yes, sir.

Q. He has, however, no special or particular duty with regard to telegraphs and supplies? A. I do not know what his duties in that respect are.

Q. You do not know that the board has ever assigned any to him, do you? A. No, sir.

Q. Do you know whether the board has ever assigned any special or particular duty to him concerning building or apparatus? A. I do not know of any such.

Q. Then Mr. Purroy's duties do not require him to be present at headquarters as the chairman of a committee, as your duties require you to be there? A. No, sir.

Q. They do not? A. No, sir.

Q. Now let us take your special duties; you referred first to the fact that as chairman of this particular committee on buildings and apparatus you investigated the necessities of the department for the repairs of its apparatus and its own buildings as well? A. Yes, sir.

Q. Now this designation "committee on buildings and apparatus" refers only to department buildings, does it not? A. Yes, sir.

Q. It does not refer to the general buildings throughout the city? A. Not at all.

Q. Which are under the control of your particular bureau for that purpose? A. Yes, sir.

Q. Do you make any investigation into the necessity for repairs before your attention has been called to the need? A. Yes; sometimes I do; it is my habit to visit various houses, and when I find that anything is necessary, I call the attention of the superintendent of buildings to it, Mr. Lamb.

Q. Now, have you ever investigated an engine-house and without your attention being specially called to it by any of the officers discovered for yourself the necessity for repairs or alterations? A. Yes, sir.

Q. Just give us two or three illustrations, will you? A. I do not remember the illustrations now, but I have found things there that should be done, and I requested that superintendent should do it.

Q. Repairs involving any extensive expenditures? A. No, sir; not involving any extensive expenditures.

Q. Repairs involving any material changes? A. No, sir; not material changes, because the captains of the companies are very eager to call our attention to anything that is needed.

Q. That is the exact point which I had in view; that is, how it could be possible that you, as a commissioner, could discover the necessity for a change or alteration before the captain could? A. As I told you before, the captain may not have reported them, and those things that I discover, as I say to you, are not very important.

Q. Then, it is fair to say in the vast majority of cases these necessities for repairs are first brought to your attention not by your own inspection but by the requisition or suggestion from the captain? A. Yes, sir.

Q. Do you immediately upon receiving such notice visit the place? A. Well, not immediately; in the course of a day or two, as soon as I have time.

Q. Now, let us take the matter of buildings; suppose a captain reports that certain repairs are necessary to any building and you go down and inspect it—have you ever had any experience in the inspection of buildings? A. No; but I can see whether that building needs repairs.

Q. Can you see in what particular manner the repairs should be made? A. Not in the manner, but I know that they should be made and what should be done.

Q. You can tell, for instance, if a floor is not in good condition, that a new floor should be put in? Yes, sir.

Q. But suppose some suggestive change is made with regard to matters more technical than that, have you any expert knowledge which enables you to judge? A. I have not.



Q. Now, take the matter of the engines; you make yourself some sort of an inspection when a requisition is made for repairs to an engine, do you not? A. I do not generally as to the details.

Q. Why do you not? A. Because that is a technical matter which we leave to the chief of the department.

Q. Is there any commissioner in your department who has any technical mechanical knowledge, so far as you know? A. I do not know whether the other commissioners have; I have not.

Q. You think you are as well qualified, however, to inspect an engine and see what changes are required technically as the other commissioners, do you not? A. No; I do not; I do not know whether the others have more technical knowledge than I have; I have none; it is a matter in which I follow the judgment of the chief.

Q. Now, as far as you know, is there any commissioner in that board who is personally qualified to pass upon the need for new and different machinery or for repairs of old machinery? A. Whether the other commissioners have that capacity or not, I can not say.

Q. You do not know? A. No, sir.

Q. Then so far as your inspection of the machines are concerned, prior to granting the requisition for repairs, it is entirely formal and perfunctory, is it not? A. Yes, sir.

Q. Who orders the repairs made; take buildings in the first instance? A. Well, the superintendent of buildings gives an estimate.

Q. And after the superintendent of buildings gives the estimate — A. And after I have considered that estimate carefully, then it is submitted to the board for its approval.

Q. The superintendent of buildings gives an estimate for the cost of the proposed changes? A. Yes, sir.

Q. Which estimate you consider? A. Yes, sir.

Q. Now, have you any expert knowledge in the matter of construction or building which enables you to consider that estimate judicially and technically? A. Not technically, but I think I can consider it judicially.

Q. You consider it judicially? A. Yes, sir.

Q. Do you have more than one estimate before you? A. Sometimes I have; yes; in cases where I was in doubt, I have had other estimates to draw from.

Q. Is it the rule of your department to require, or at least to invite proposals for competitive bids for repairs on engine-houses? A. Not when the cost of the repairs is below \$1,000.

Q. Well, in the majority of cases, the repairs are below \$1,000, are they not? A. In the majority of cases.

Q. Consequently, in the majority of cases the bidding is without competition? A. Yes, sir.

Q. And in the majority of cases the estimate comes to you accompanied by only one bid? A. Yes.

Q. Well, now if you were an expert builder, having only one bid before you, you would be able to judge of the fairness of the bid, would you not? A. As I said to you, I have had cases where I was in doubt, and had expert builders with me.

Q. Now will you tell some of those cases where you were in doubt? A. I do not remember the instances now.

Q. What raises the doubt in your mind? A. Well, because it appeared to me the estimate was rather high, but expert builders in many instances gave a larger estimate than the one that I had.

Q. Did you call in the same expert builder on each of those occasions? A. No; I did not.

Q. Different ones? A. Yes, sir.

Q. What expert builders have you called in from time to time? A. I would not like to name them, because they would lose their usefulness to me; they are not paid for it.

Q. They are not paid for it? A. No, sir.

Senator FASSETT.—How could it affect their usefulness to have their names known?

The WITNESS.—Well, they would simply not go with me any more. It is a friendship to me that they do it.

Q. Is there any reason why, if they perform a public service which is valuable, that they should not be paid for it? A. If there was any provision to pay for it, it might be different.

Q. Have you a contingent fund in your office? A. Not for such purposes.

Q. What purpose is your contingent fund for? A. In fact, I do not know whether we have a contingent fund.

Senator FASSETT.—You do not know whether you have a contingent fund? A. No.

Q. And now, after you have approved of the estimate, either on your own unaided judgment, or on your judgment as aided by an expert, what is the next step taken by the department toward meeting the requisition of repairs? A. Well, after I have approved them, they are submitted to all of the commissioners.

Commissioner PURROY.—I want to state, Mr. Chairman, that I had been summoned to-day, as president of the board, before the board of estimate and apportionment, in regard to the departmental estimate; when your messenger came over, I immediately went before the board,

and asked to be excused, so that I might obey the summons; of course, it is very important to me, I having been the commissioner longest in the service, that I should know the course of examination; I am here ready to be examined; I do not wish to shirk any responsible duty, at all, but I want to say to Mr. Ivins, that I have set everything aside, although not subpœnaed; I was not subpœnaed last night, and the subpœna contained a mistake; it did not state to-day; but in spite of all those facts, I appear here to-day; the only thing is, I would like, as soon as I could, consistent with your own views, and consistent with the views of the committee, to go back to the board of estimate and apportionment.

Senator FASSETT.—How long will this witness take?

Mr. IVINS.—We will not need Mr. Purroy for an hour or two.

Commissioner PURROY.—I prefer very much to listen to Mr. Ivins' questions.

Senator FASSETT.—We will be very glad to have you here.

Mr. IVINS.—Mr. Purroy evidently wishes to be a bird, and to be in two places at the same time.

Commissioner PURROY.—No; that theory was exploded by Sir Boyle Roche a long while ago.

Mr. IVINS.—What is the last question?

[The stenographer read the last question and answer, as follows:]

“Q. Now, after you have approved of the estimate, either on your own unaided judgment, or on your judgment as aided by an expert, what is the next step taken by the department toward meeting the requisition for repairs? A. Well, after I have approved them, they are submitted to all of the commissioners.”

Q. At the meeting of the committee which is simultaneous with the meeting of the board? A. Yes, sir.

Q. Is a special or particular resolution then passed, either by the committee or the board, authorizing the expenditure? A. Well, it is simply approved; a resolution is simply passed to approve the estimate of the committee.

Q. Then it goes to what bureau? A. To our superintendent of buildings, Mr. Lamb, not to a separate bureau.

Q. And from that time on, he has charge of it? A. Yes, sir; he is a builder himself, an expert.

Q. Are the contracts for the performance of this work made in writing? A. Yes, sir.

Q. And are kept on file in the office? A. Yes, sir.

Q. That is so with regard to every matter of repairs to buildings, is it? A. Yes, sir.

Q. Now, what course is pursued, touching repairs of engines and the other machinery? A. Well, a similar course is pursued there, but, of course, those estimates are not submitted to the superintendent of buildings.

Q. To whom are they submitted? A. They are not submitted to the superintendent of buildings.

Q. To whom are they submitted? A. To the chief of the department; in fact, that matter is chiefly in the hands of the chief of the department, because he is supposed to know best as to the necessity and efficiency of engines.

Q. Is that equally true of the matter of all mechanical supplies and appliances? A. Well, no; we have a supply clerk who buys a certain kind of supplies.

Q. What kind of supplies does the supply clerk buy? A. If you will ask Commissioner Robbins, when he comes up here, he can tell you; he is chairman of that committee; he can give you better information on that subject than I can.

Q. Just for the present purposes, I will ask you this question: The supply clerk buys fodder, I suppose, and coal? A. No; he submits an estimate or estimates, and those are advertised, and they are given out at public meetings to bidders; estimates are provided for bidders.

Q. Are estimates invited for all supplies of fodder and fuel? A. I think so; I am not quite certain, but I believe they are.

Q. Now, supplies of hose and material necessary to the mechanical work of the department, other than fuel, are they in charge, in the first instance, of this same clerk, the supply clerk? A. No; I believe they are in charge of the chief.

Q. They are in charge of Chief Bonner? A. But, inasmuch as that is not a matter of my committee, I could not give you any definite information on that subject; I might be mistaken.

Q. Now, you said that part of your business was to care for the relief fund? A. Yes, sir.

Q. Will you explain to the committee what the relief fund is? A. Well, the relief fund is a fund which is rather for the relief of firemen, after they are out of service, and for widows and orphans of firemen.

Q. Are you familiar with all of the provisions of law affecting that fund and its administration? A. Well, yes, I am, but I haven't it all in my head; I made a memorandum on that subject.

Q. Your duty consists, mainly, does it, in seeing that that fund receives everything to which it is entitled, and that the sums disbursed from the fund are only disbursed to those who are entitled to them? A. Yes, sir.



Q. So that in that regard you are simply the manager of a trust account; is not that the fact? A. Yes, sir; I am responsible for the management of it, too.

Q. In the first instance? A. And I am under bonds for that purpose.

Q. What is the amount of your bond? A. \$20,000; double security.

Q. And who are your sureties? A. A gentleman named George A. Heinrich, and the other one I have really forgotten; that is, I should not have forgotten it, but his name is not in my mind at present; Heinrich's security alone is more than double.

Q. In what name is the relief fund deposited? A. In the name of the trustees of the relief fund.

Q. And the entire board are the board of trustees? A. Yes, sir.

Q. When checks are drawn against the relief fund, by whom are they signed? A. They are signed by me.

Q. Does one signature suffice to withdraw money? A. For ordinary checks; yes.

Q. To whom is your bond given; the city or the board of trustees? A. I could not answer that question; it was approved by the comptroller.

Q. It was approved by the comptroller? A. Yes, sir; and he made out the papers in the case.

Q. Do you hold yourself amenable under the law to the board of trustees or to the city for the proper management of that fund? A. Well, to either party.

Q. To either or both, I suppose? A. Yes, sir.

Q. You have a bookkeeper? A. Yes, sir.

Q. He has especial charge of the books of that fund? A. Yes, sir.

Q. What is his name? A. Savage.

Q. How long has he been in charge of those books? A. Well, long before I came into the department.

Q. Has he any assistants? A. No; he has no assistants.

Q. How much is Mr. Savage paid? A. I believe his pay is \$3,000.

Q. Is that a charge against the fund, or against the city treasury? A. That is against the city treasury.

Q. And not against the fund? A. No, sir.

Q. Do you know any reason why the city treasury should be under the charge of employing a bookkeeper to keep the accounts of that fund, rather than the fund itself? A. I do not know; but a fund which is for widows and orphans mainly, I think it would be somewhat of a hardship, because those men have rendered services to the city.

Q. Do you check off the accounts of the fund as kept by Mr. Savage ? A. Yes, sir.

Q. How frequently do you look over and examine his books ? A. Well, about once a month; he reports to me once a month.

Q. What steps did you personally take in conjunction with Mr. Savage, to see that the fund receives all the moneys to which it is entitled ? A. Well, we know the sources from which that fund is derived, and the money is collected from those sources.

Q. I call your attention to the following statement on page 100 of the report of the board for the three months of the year ending December 31, 1889: " Money received for licenses and permits issued, penalties collected, sale of explosives, etc., seized, etc., for 4,172 kerosene oil licenses issued at \$10, \$41,720; for 19 powder licenses issued at \$2, \$38; for 749 special permits issued at \$2, \$1,498; for 11 wholesale fireworks permits issued at \$20, \$220; for 162 retail fireworks permits issued at \$5, \$810; for 63 kindling fire in street permits issued at 50 cents, \$31.50; for 32 powder licenses issued at \$5, \$160; for 3 permits to keep and use explosives in main magazines, at \$25, \$75; for 78 permits to keep and use explosives in hand magazines, at \$10, \$780; for 3 permits to keep and sell explosives, at \$25, \$75; for 7 permits to transport explosives, at \$1, \$7; total for licenses and permits, \$45,414.50, to which is added \$625 as the total for penalties and for sale of powder siezed, being total received and turned over to the relief fund from these sources, \$46,039.50. Now, I call the attention of the committee to this point, because the question will be raised later, touching the whole question of licenses in the city here; our taxes are not only those which are levied directly, which are collected under the tax levy, but there are certain special classes of taxes by licenses, some of which are collected through the mayor's office; there is a class of licenses touching permits to use explosives, to use oil, to use fireworks, and other matters of that kind, on which a license tax is also collected; that is done through the fire department, and the proceeds from those licenses are paid by provisions of law into the relief fund of that department; in the other cases, some of these license fees go into the sinking fund of the city, and some of these license fees go into the general fund of the city, but these particular fees go into the relief fund of the fire department; now, Mr. Eichkoff, will you tell the committee what steps you take as the person in charge of the relief fund, to see that all persons who receive licenses, actually pay the ten dollars fee required to be paid by law, for such license ? A. There is a special officer to attend to that part of the business of the fire department.

Q. Who is he? A. That is the inspector of combustibles.

Q. Now, would it be possible for a person in this city to receive a license to sell kerosene oil, and for that license nevertheless, not to appear upon the books of your fund, and for the ten dollars not to have been paid into your fund? A. I suppose it would be possible, if our inspector was a dishonest man.

Q. If your inspector were a dishonest man he might grant a license, you think, and take the ten dollars and put it in his pocket? A. But he would run the risk of being detected.

Q. Of course, all dishonest men do that, do they not? A. Yes; nevertheless there are many dishonest men.

Q. Are there any steps taken by your department to so limit and control dishonesty, that it would be practically impossible to be dishonest in that regard? A. I do not believe it would be impossible, but I believe it would be detected if it were repeatedly done.

Q. Are these licenses issued in blank to the head of that bureau of combustibles? A. No.

Q. They are not issued in blank? A. No.

Q. Books, I suppose, containing the licenses, and with stubs, are printed, are they not? A. Yes, sir; I think so.

Q. And the stub system prevails? A. Yes.

Q. Have you ever examined the stubs to see whether they are all filled in? A. Yes, sir.

Q. Have you found them always all filled in? A. I have never missed any.

Q. You have never missed any? A. No, sir.

Q. Have you ever found that any of the stubs have been marked cancelled as for error? A. I do not remember having found any such.

Q. You do not remember? A. It is possible, though, that there are such.

Q. Have you ever caused an examination to be made to see whether or not the licenses correspond with the stubs? A. I have not made such examination.

Q. Do you know that in some of the departments a certain number of licenses in blank, accompanied by the stubs, are issued to the party who has to dispose of those licenses? A. In other departments I do not know what systems they have.

Senator FASSETT.—Does the witness understand your question about these licenses being issued in blank; they have to be given to him in blank, do they not?

Mr. IVINS.—He understands that.

Q. They are issued to the chief of the bureau in blank, whereupon, he, or one of his subordinates, fills out the license, and the stub is filled out to correspond with the license, and then the license is issued? A. Yes, sir.

Q. But do you keep any account with the head of that bureau of the licenses issued to him in blank? A. I believe that our secretary—in fact, I know our secretary keeps such an account.

Senator FASSETT.—That is, at any given time the number of fees shown as paid in and the number of blank licenses left ought to check up? A. Yes, sir.

Q. And that you say is done? A. Yes, sir.

Q. That is done by the secretary? A. That is done by the secretary.

Q. Then by that means you have a system which would render it very difficult for the fund to be defrauded of any of these license fees? A. Yes, sir.

Q. Then the only other means by which the fund could lose its revenue would be through the selling without licenses? A. Yes, sir.

Q. Now, will you tell us what steps are taken by the department to detect and punish persons selling without licenses, so that the penalty as prescribed by law may accrue to the credit of the fund in the first instance, and so that in the second instance, the person must thereafter, if selling, sell with a license? A. There are officers who go around to detect violations of that character.

Q. Who is the chief of those officers? A. Mr. Seary.

Q. How long has he been in the bureau? A. I do not know how long he has been there; a great deal longer than I have; I have been there only one year and a half, Mr. Ivins.

Q. Now, when those violations of the law have been detected they are turned over to your attorney for prosecution. A. Yes, sir.

Q. And do you take any steps to see with what thoroughness and with what haste the attorney prosecutes those cases? A. I can not say that I have paid any special attention to that part.

Q. Do you know whether any member of the board pays any special attention to that? A. I do not; there may be, though; yes; I believe one of the commissioners has taken special interest in some violations, but naturally we have to rely upon the efficiency of our attorney.

Mr. IVINS.—I call the attention of the witness and of the committee to what appears to be the report of the attorney. At any rate it is the report of the board concerning the bureau of the attorney, at page 133 of the report for the year 1889. The attorney reports that: "Of violations of the law relating to combustibles" etc. "There were



received by him" — was this during the year or during the three months?

Mr. FINDLEY.— During the year.

Mr. IVINS.— There were received during the year ten for selling kerosene oil without license and one for failure to provide telegraphic communication, being eleven notifications for violations in all received by him for disposition; ten of which were for selling kerosene oil without a license and one was for a failure to provide telegraphic communication; that these, with five cases that were pending, as shown in the last report, made sixteen cases. He reports that of those, three of the old cases, that is, fireworks, chemicals, matches, etc., kept without permit, were called before the commencement of litigation and recalled for reasons other than the removal of violations as they necessarily must have been. After the commencement of the litigation, he reports that one of the violations complained of was removed before trial in the case of fireworks, chemicals, matches, etc.; that one judgment was got for hoistways found open after conclusion of business; that three cases of selling kerosene oil were licensed and were dismissed; that there were seven of such cases then pending; and I find that of those sixteen cases there was only one judgment obtained for the department; that eight were disposed of after commencement of litigation, three disposed of before commencement of litigation, and eight are still pending. Now, will you tell me what steps you or any other commissioner takes to discover how and in what manner the attorney performs his duties as touching the class of cases I have just referred to?

The WITNESS.— I do not especially know how he performs his duty; but most people, when they are notified of the necessity of having a license, obtain that license without being brought before him.

Q. Have you ever paid any attention to the manner in which the detectives of the department do their duty, sufficiently to enable you to judge whether or not the discovery of only ten violators of the law, relative to selling kerosene oil without a license, is a proper performance of their duty? A. I suppose there were more detected, but I suppose they obtained licenses.

Q. Is there any reason, so far as you know, why a person detected in actually selling without a license should not be complained of to the bureau of the attorney? A. I know of no special reason; but the attorney himself can give you better information than I can upon that subject.

Q. We expect to call the attorney; but you are in charge of these funds, and I want to find out exactly what your own knowledge

relative to those general matters are? A. I am in charge of the fund when it comes to me.

Q. Do you think that the charge of the fund devolves upon you the duty of seeing that everything connected with the collection of moneys which belong to that fund is done? A. In a general way, yes; but I could hardly be supposed to run after detectives and see whether they perform their duties; I would have to be a detective myself, which I am not.

Q. Now, I just called your attention to the fact that a certain number of cases are placed in the hands of the attorney for disposition?

A. Yes, sir.

Q. But, as you said, there are many discoveries made which are not placed in the hands of the attorney? A. I suppose so.

Q. Now, I turn to page 99 of the report, which contains the report of the bureau of combustibles and shows the operation of that bureau under the law, requiring the storage of combustibles and explosive materials; that report shows that there were pending since the last report, 119 complaints of violations; that there have been received since the last report, 830 complaints of violations; that the total to be disposed of was consequently 949 complaints of violations; now, I find that 435 persons complied with the law upon notice of the fact that they were selling kerosene oil without a license? A. Yes; I referred to that.

Q. Now, I find that only ten cases were referred to the attorney of your department; do you know of any reason why all such cases should not be referred to the attorney of your department and why all violators of the law for selling without a license should not have the penalty imposed upon them.

Mr. PURROY.— It states right there in the report.

Mr. IVINS.— Where?

Mr. PURROY.— Four hundred and sixty-three complied with; thirty were unfounded, and so on.

By Mr. IVINS:

Q. That is the very point I am at; 463 complied with; now, because they complied with the law, is that any reason why they should not be fined for failure to comply with the law up to the time that you discovered them in the breach of it? A. I believe that the attorney could give you better information on that subject than I can.

Q. Is it the policy of the department that when you detect anybody violating the law, if they promise not to do it again and take out the license, you forgive them, as far as you are concerned?

Mr. PURROY.— No; when they promise and carry out the promise. We do not take the promise.

The WITNESS.— When they pay for it.

By Senator FASSETT:

Q. That was included in the question? A. Yes, sir.

By Mr. IVINS:

Q. What particular regulations are there of the department, or what general orders or special orders are there in the department touching the manner in which actions shall be brought against parties for failure to have complied with the law? A. Well, they are referred to the attorney and the attorney has to judge whether under the law he can attain the objects.

Q. Is there any special or general order or any resolution of the board to the effect that it is the policy of the board that if persons complied with the law they shall not be punished? A. We have not passed any such resolution to my knowledge since I have been there, but I suppose they exist; I wish to repeat that I have only been there a year and a half, and there had been many things established before I came into the board.

Q. Do you know what is done conformably with that policy, so as to be sure that no man is absolved from his obligation to pay the penalty, unless he is actually keeping his promise? A. I have no means of knowing.

Q. Isn't it a fact that just as soon as a man takes a license he keeps his promise by taking the license? A. He has to pay for it.

Q. He has to pay for it, of course? A. Yes, sir.

Q. Then, if I have been a violator of the law by having sold oil without a license, have been doing it for a year or two years, and am thereafter detected, and as soon as I am detected pay my ten dollars, it is the policy of the department, is it, that that should end it? A. I do not believe that there are as many cases as that which are not detected soon after they have commenced.

Q. I find that there were received in one year 519, and of those 463 complied? A. I suppose when these grocers commence they sometimes delay or neglect, and sometimes even may not know that they have to take out a license.

Q. I find this also: The grand total to be disposed of was 949; the grand total disposed of was 851, leaving ninety-eight pending; of the 851 disposed of, I find that only eleven were recommended for prosecution; now, who recommends the prosecution? A. The board does.

Q. As a board? A. Yes, sir.

Q. Upon resolution? A. Yes, sir.

By Senator FASSETT:

Q Do the minutes of the board show that? A. Yes, sir.

By Mr. IVINS:

Q. Do the minutes state that? A. Yes; I think so.

Q. Who calls the attention of the board to the particular cases?  
A. Yes, sir.

Mr. PURROY.—Have you any objection to my setting you right in regard to that?

Mr. IVINS.—None at all.

Mr. PURROY.—The recommendation is made to the board and the board either approves or disapproves of the recommendation; the board does not make the recommendation.

Mr. IVINS.—That is the question I was just asking; who makes the recommendation to the board?

The WITNESS.—The superintendent of combustibles.

Mr. PURROY.—And that total includes chimney fires and a number of other things which, if you will look at them, you will find are of a very different nature from those you refer to.

Mr. IVINS.—I understand that this is a total of the “violations under the laws regulating the storage of combustibles and explosive materials, etc.”

The WITNESS.—I thought you were speaking all the time of kerosene oil.

Mr. PURROY.—I was afraid all the time the commissioner misunderstood you.

The WITNESS.—There were a great many people whose chimneys were on fire who had moved out when our superintendent came there.

By Mr. IVINS:

Q. That is one reason why I did not ask you about those things.

A. Then I suppose you wanted to catch me; I hope you had no such intentions.

Q. No; not at all; I say that is the reason I did not ask, because I knew perfectly well that under those circumstances you had nothing to do.

Mr. PURROY.—I knew you wanted to be fair Mr. Ivins, and I wanted to call that fact out.

Q. We have 851 cases here disposed of, of which number disposed of only eleven prosecutions were recommended; now, the great bulk of these cases consist of selling kerosene oil without license, of



which 463 complied on notice, thirty were unfounded, making a total of 503 disposed of, leaving sixteen now pending; ten prosecutions were recommended out of that 103?

MR. PURROY.—No; Mr. Ivins, if you look you will find that is a mistake.

MR. IVINS.—Now tell me where that is a mistake?

MR. PURROY.—You cite all these violations and jumble them all together; if you will look at that you will see that the ten prosecutions recommended only related to the selling of kerosene oil without a license.

MR. IVINS.—That is exactly what I said.

MR. PURROY.—Well, excuse me then.

MR. IVINS.—If you want to interrupt me and try to make me correct, you must render your own hearing more accurate.

MR. PURROY.—I won't indulge in any personalities with you; I only wanted to help you; I thought I was summoned here, and I have the best of feeling in the matter; of course, if there is to be any temper to be thrown into it, I will endeavor even then to preserve that good feeling.

MR. IVINS.—I have made no allusion to temper; I have never lost my own; now, the facts are as I have stated before; that there were 519 cases of selling kerosene oil without a license; that of that 519 cases, 503 were disposed of, 463 complied on notice; thirty of the complaints were found to be unfounded and ten prosecutions were recommended; consequently, of the prosecutions recommended for all the causes set out in this table, which was eleven, ten consisted of recommended prosecutions for violations for selling kerosene oil without license, and there was only one prosecution recommended for violations of all the other classes put together; that is the reason why I confine my attention to the selling of kerosene oil without a license.

MR. PURROY.—Would it be wrong to interrupt?

MR. IVINS.—No; go ahead.

MR. PURROY.—If you will notice there were eighty for chimney fires where the penalties were collected by suit.

MR. IVINS.—I am talking about prosecutions recommended.

MR. PURROY.—How could they be collected unless the prosecution was recommended? I already explained to you that they send in to the board the recommendation, and the board approves or disapproves of it, and there are eighty cases where they collected the penalty. That would be by suit.

Senator FASSETT.—Is this a question of confusion in the way the report is gotten out?

Mr. PURROY.— Oh, no.

Mr. IVINS.— Now, may be Mr. Purroy will explain more fully what is the difference between suit and prosecution, because there appears to be a difference on the face of the report?

Mr. PURROY.— Any technicality I am ready to answer.

Mr. IVINS.— Well, just answer that so as to elucidate this report.

Senator FASSETT.— It would be better, perhaps, to swear Mr. Purroy right here and then use him as an “annex” witness.

Mr. PURROY.— That is what I am anxious for.

Mr. IVINS.— Well, just as the committee please. It is immaterial to me, only I do not want to have two witnesses on my hands at the same time, because although I have had some experience I can not handle two witnesses simultaneously.

Senator FASSETT.— We would prefer to have single-barreled testimony here. Mr. Purroy, if you see that your department is being embarrassed by any misunderstanding through counsel and witness, if you will make a memorandum of those points, when we swear you we will give you a chance to clear them all up.

Mr. PURROY.— Very well, I will remain silent then, no matter how gross the mistake may be.

Senator FASSETT.— Very well then, I think that would be a good plan, and then so much will be your triumph when you show how gross the mistakes were.

Mr. PURROY.— Or my defeat.

By Mr. IVINS:

Q. Now, you report here also that special surveys are made to determine the fitness of premises for the storage of combustibles or explosive materials, and that of those, 940 were made; will you explain to the committee who makes those surveys, and under what regulation if any they are made? A. They are made by the inspector of combustibles.

Q. I find that you report that 6337 samples of kerosene oil were collected and tested; who makes those collections and who makes those tests? A. The collections are made by the superintendent, by the inspector I should say, and his assistants.

Q. Do you know whether or not there is a rule of the board that every person holding a kerosene oil license shall either periodically or from time to time, give to the collector a sample of the oil sold by him? A. Yes, sir.

Q. Who is responsible for that being done? A. The inspector of combustibles.

Q. Is he responsible directly or indirectly through the acts of one of his subordinates? A. I suppose he is responsible for the acts of his subordinates.

Q. Is the inspector of combustibles an officer who is appointed under the provisions of the civil service act? A. I do not know whether they are; none have been appointed since I have been there that I know of.

Q. Now, I call your attention to the statement on page 134 of cases for violations of law relating to buildings; do the penalties collected in cases for violations of law relating to buildings go to the relief fund? A. No.

Q. They do not? A. No.

Q. Have you any particular duty as distinguished from that of any of the other commissioners or the board, touching the matter of violations of the law relative to buildings? A. I have not.

Q. Now, I have asked you about the special matters of your committee and I have asked you about the relief fund; let us go back to the first part of your testimony; the first thing you referred to in describing the duties of the commissioners was, as you said, to watch the bureaus? A. No; I beg your pardon, not to watch the bureaus.

Q. I understood you so; you meant to attend to the business of the office? A. Yes, sir; to attend to the business of the office.

Q. You were using the word bureau as synonymous with office? A. Yes, sir.

Q. Then you said your duty was to investigate complaints? A. Well, that is no special duty of mine; that is a duty generally.

Q. Now, will you describe to the committee the method in which the complaints are prepared, the method in which the complaints are received, the method in which the complaints are brought and the method in which the cases are disposed of on trial? A. Well, some complaints are made personally or verbally, others in writing; those complaints in writing are sent to the various bureaus which they concern and the officers of such bureaus are asked to report upon those complaints.

Q. What are the bureaus of your department? A. The bureau of buildings, the bureau of combustibles, the bureau of telegraphing and the bureau of fire marshal, if you call that a bureau.

Q. You have a bureau of chief of department which is the great bureau of the system haven't you? Oh, yes; that, of course.

Senator FASSETT.—What is that?

Mr. IVINS.—The bureau of chief of department.

Mr. PURROY.—There is no bureau of telegraphing.

The WITNESS.— It is an office.

Mr. PURROY.— Yes; but not a bureau.

The WITNESS.— Not a bureau.

By Mr. IVINS:

Q. I find here that you have set out in your report that at headquarters there are officers and employes, including commissioners, special and assistant special medical officers, bookkeepers and clerks, typewriters, stenographers, janitor, elevator and attendant watchmen, machinists, stokers and a scrub woman, twenty-eight; those officers do not fall within the provisions of the civil service reform law, do they? A. Are clerks enumerated there?

Q. Yes. A. Yes, sir.

Q. The clerks do? A. Yes, sir.

Mr. IVINS.— I find to quote from this report, that there are in the bureau of chief of department 1,094 employes; in the bureau of the inspector of combustibles ten; in the bureau of the fire marshal five; in the bureau of inspection of buildings seventy-four; and then the attorney to the department one; and, in order that it may be spread upon the minutes properly in this connection, and the material brought together, I find that the expenditures for headquarters, that is the twenty-eight persons referred to, was for that year \$50,007; the expenditure of the bureau of chief of department was \$1,338, 269; the expenditure of the bureau of inspector of combustibles was \$12,779; the expenditure of the bureau of the fire marshal was \$7,400; the expenditure of the bureau of inspection of buildings was \$99,419, and the salary of the attorney was \$4,000.

Q. When these complaints come to any of these heads of bureaus, what is the next step taken after they are received by the head of the bureau? A. I suppose the head of the bureau institutes an investigation.

Q. You suppose he does? A. It is for him to do his duty in that respect.

Q. What specific duty is imposed upon the bureau of chief of department, for instance, in that respect? A. He has many duties.

Q. Does he investigate all complaints? A. I have no doubt he investigates those complaints.

Q. Is there any general regulation, resolution, general or special order of the board which lays down the rules according to which, or the manner in which he shall investigate these complaints? A. Yes, sir; there are many rules of the board in existence, which are printed in a book.



Q. Do you, as a commissioner, take any steps to see whether the chief of that bureau actually investigates the complaints in the first instance, in conformity with the regulations of the board? A. I have no doubt he investigates them, because he reports them.

Q. Does he report all cases back to the board at once? A. Not at once; he has to investigate the matter.

Q. I mean as soon as he has investigated, does he report back to the board? A. I suppose so; yes.

Q. Suppose a complaint were to be made against a fireman of the first, second or third grade for having been drunk when he ought to have been on duty, that complaint would come into your department either through the captain or the proper officer in the district, or it might come from an outsider, wouldn't it? A. Yes, sir.

By Senator AHEARN:

Q. In relation to that, are there not four or five chiefs of battalions, are there not? A. Yes, sir.

Q. Do not the captains of the different companies, when there is a complaint made against any of the men, submit their complaints first to the chief of battalion to be investigated? A. I believe the captains make the charges themselves.

Q. They make the charges to the chief of battalion, do they not? A. No.

Q. To the chief of the department? A. To the board.

By Mr. IVINS:

Q. In order that we may get at that point somewhat better, let me ask you to explain now the general organization of the bureau of the chief of department? A. Do you mean the organization comprising the whole uniformed force?

Q. Comprising the whole uniformed force; what is the organization of the uniformed force, and of that part of the uniformed force which is in the bureau of the chief of department? A. The uniformed force consists of various companies.

Q. How many? A. I believe eighty-three; I have not all these figures in my mind.

Q. Now, how are these companies proportioned through the city, and what is the next order or class in the organization? A. They are scattered over the city; they are nearer together in the more thickly populated parts of the city.

Q. Now, let us go a step further; how many fire districts are there in the city? A. That I can't tell.

Q. Did you have anything to do, as commissioner, with the determination of these fire districts? A. No, sir.

Q. That was all done before you came into the board? A. Yes, sir.

Q. And you have not yet found out how many there are? A. No.

Q. So you could not tell, if I were to ask you, where the sixth fire district was, as distinguished from the eleventh, could you? A. No.

Q. You have referred to the fire companies; these companies are brought together into a larger organization, are they not? A. Yes, sir.

Q. And what is that larger organization? A. That is the battalion.

Q. That is a battalion? A. Yes, sir.

Q. How many battalions are there? A. Twelve.

Q. Now, I have here a map which is printed at page 96 of your report for the year 1889, which sets out twelve fire districts; are those districts the battalion districts? A. Yes, sir; I believe so.

Q. You believe so? A. Yes, sir.

Q. You know what the battalion districts are? A. The battalion districts comprise a number of engine-houses and hose and truck-houses.

Q. Can you tell me, for instance, generally, without referring to the books, in what part of the city the sixth battalion is located? A. Not unless I look at that map.

Q. I won't ask you to look at that map, because if you did you would be misled; you are in error with regard to the districts shown on this map, and the battalion districts being the same; they are not; consequently, this would only tend to mislead you. A. I am liable to be in error as every human being is; these matters are specially the business of the chief of the department.

Q. Can you tell me, generally speaking, in what part of the city the eleventh battalion is now doing duty? A. I can not.

Q. Who is chief of the eleventh battalion? A. I can not tell you that either without looking at the record.

Q. Can you tell me who is chief of any battalion in the city, giving the battalion of which he is chief? A. I could not even give you the name; I could find the chiefs of battalions without looking into any book.

Q. I could do that myself? A. If you know them all as I do, and I know the houses where they are.

Q. Knowing the houses where they are, can you tell me where the office or headquarters of the chief of the sixth battalion is? A. Not by the figure.

Q. We have the companies and then we have battalions; can you tell me how the battalions are organized, that is, how many companies, either the engine companies or the hook and ladder companies, or both, go to make a battalion? A. I could not definitely state that.

Q. The captain is the superior officer of a company? A. Yes, sir.

Q. Who is the superior officer of a battalion? A. The chief of the battalion.

Q. Who is the superior of the chief of a battalion next in order? A. An assistant chief.

Q. How many assistant chiefs are there? A. Two.

Q. Are not such work divided between the assistant chiefs according to localities; can you tell which battalions are under the superior control of— who are the two assistant chiefs? A. One is McCabe and the other Reilly.

Q. Can you tell which battalions are under the control of Assistant Chief McCabe? A. I can not.

Q. Do you know which battalions are under the control of Assistant Chief Reilly? A. I do not.

Q. To whom do the assistant chiefs report? A. They report to the chief.

Q. Then the organization of the force consists of a chief, two assistant chiefs, twelve battalions, and a number of companies which number about eighty-one? A. Eighty-one.

Q. That includes companies of all kinds? A. Yes.

Q. Now, having got at the organization of the force, let us go back to a case of specific complaint.

Senator FASSETT.— Do you say there are eighty-one companies?

Mr. IVINS.— Eighty-one companies; yes, sir.

Q. How many companies are there to a battalion? A. I believe it varies; I am not certain.

Senator FASSETT.— It evidently does.

Q. How many men to a company? A. That varies also.

Q. Is there not an average of men to a company? A. I believe not; it varies according to the importance of the station.

Q. Is not sixteen the average number of men to a company? A. It may be the average; yes.

Q. Now, for an elucidation of this, I call your attention to that part of your report which is contained in pages 12, 13 and 14; I find that the engine company which has the highest number is company fifty-six; do you know how many engine companies there are? A. Yes, sir; I have got it here; I find here engine sixty.

Q. Then that has been increased by adding four companies since

this report was published? A. Yes, sir; now, let me suggest to you, Mr. Ivins, that this is somewhat a technical matter under the chief of the department, and he can give you better and more thorough information on that subject than I can, because it is under his immediate charge.

Q. Still he is your inferior officer? A. Yes, sir.

Q. He is responsible to you and you are responsible for his acts, are you not, as a commissioner? A. Not for his acts; no.

Q. For his failures? A. I do not know that we are for his failures.

By Senator FASSETT:

Q. Is a commissioner responsible in any way for the administration of the fire department? A. Well, yes.

By Mr. IVINS:

Q. Then, if you are responsible for the administration of the department, you are responsible for the administration of the chief, are you not? A. Yes; but if I was to be informed of all the duties I do not see what we would need a chief for then.

Q. That is one of the things that this committee wants to find out; since you have a chief, we want to find out why you need a commissioner; I find that at the time of this report there was twenty hook and ladder companies? A. Yes.

Q. That number has been increased, has it — to make your figures balance it must have been increased by at least one? A. Yes, sir.

Q. Is that right, that there has been one additional hook and ladder company? A. Yes, sir.

MR. IVINS.—Now, I find from this report, if the committee please, that in the great majority of cases of, officers and men included, twelve persons. Some of the companies have sixteen persons and a number of the companies have twenty persons, and I notice that in the column of remarks in those cases in which there are twenty members of the force, they are designated as double companies.

Q. Now, will you explain in what regard, if any, a double company differs from the ordinary company of twelve men and officers? A. There is an engine in one part of the house and a truck in the other.

Q. And in these cases which have but twelve men there is only an engine? A. Or a truck.

MR. IVINS.—Now, we will take up this afternoon the question of the course pursued in regard to a complaint against a member of the uniformed force.

SENATOR FASSETT.—We will adjourn till quarter past 2. The committee thereupon stood in recess until 2.15 o'clock.



## AFTER RECESS.

Mr. EICKHOFF, recalled, and examination resumed.

By Mr. IVINS:

Q. Mr. Eichkoff, before we went into the question of the general organization of the chief of department, I had asked you as to the manner in which complaints were preferred and the manner in which complaints were tried; let us now take a supposititious case of a member of the force who may have been charged with being intoxicated when he should have been on duty; in what way would that complaint reach the commissioners? A. It would be sent by the captain of the company of which that fireman was a member.

Q. To whom would the captain of the company send it? A. He would send it to the commissioners.

Q. Directly? A. I think he would.

Q. Would he not send it first to the chief of battalion? A. No; I guess not.

Q. Is it not the rule of the department that complaints shall reach the commissioners through the hands of the chief of battalion and the assistant chiefs and the chief? A. Yes, sir.

Q. And then, through them to the commissioners? A. Yes, sir.

Q. Now, suppose one of the chiefs of battalion thought fit not to forward that complaint, would it be in his power to confer with the captain and have the complaints suppressed? A. I do not know whether that would be in his power or not; I believe not.

Q. Do you think that the chief of battalion has any power in the premises at all? A. I do not believe he has the power to suppress any complaint.

Q. What power has he in the matter of complaints? A. Well, if there should be a charge against a captain, for instance, he would make the complaint.

Q. If the charge be against the captain it is then preferred by the chief of battalion? A. Yes, sir.

Q. Is that preferred directly to the commissioners or indirectly through the chief of the bureau? A. Through the chief.

Q. Well, what power has the chief in such a case to suppress a complaint made by a chief of battalion against a captain? A. I do not know whether — he might not suppress it, but I don't believe he would.

Q. Could he if he wanted to? A. Oh, it would become known.

Q. It would become known? A. Yes.

Q. Well, is there any constraint upon the chief to prevent his suppressing a complaint, except the general fact that his failure to for-

ward it might become known? A. It would be a severe error on his part, or worse, to do so.

Q. Have you ever heard of a case in which the chief of battalion has said to a captain that a certain complaint had better be withdrawn?

A. I have not.

Q. Or not forwarded? A. I have not.

Q. Have you ever heard of a case in which the chief has said to the chief of battalion that a certain complaint against a captain had better be withdrawn or not be made known? A. I have never heard of such a case.

Q. Now, after the complaint comes to the commissioners what course do they pursue? A. The man against whom the charges are made is tried.

Q. Well, in what form does the complaint reach the man against whom the charges are made before he is tried? A. Oh, a copy is sent to him.

Q. How long is he given to answer? A. Well, that varies; if his time was not sufficient and he would state so at the time when he was subpoenaed to appear, he would certainly have more time.

Q. Is there any regulation as to time? A. I do not know whether there is a regulation covering that point; may be, though; there has been no new regulation made in that respect since I am there.

Q. What part does the attorney to the board take in the trials of complaints against officers and men of the uniformed force? A. In severe complaints, or serious complaints, he takes the part of an ordinary attorney, assisting the investigation; assisting the commissioners.

Q. Whom does he assist, the commissioners or the men? A. The commissioners.

Q. Does he act as a judge advocate and assist both parties, or does he act as counsel for the board and assist them alone? A. He acts as counsel for the board.

Q. How are those trials held; by whom? A. By the commissioners.

Q. Sitting in full board? A. Most of the time in full board, but there is occasions when only two are present.

Q. Are the trials ever held with only one commissioner sitting? A. I know of only one instance, but that was not a trial of a fireman but of an inspector of buildings, and I simply took the testimony in that case and submitted it to the board.

Q. Who was that inspector? A. I don't remember his name; we are not obliged to give the inspectors a public trial, but we —

Q. You remember taking the testimony but you don't remember whose case it was? A. No; it was a good while ago.

Q. Did you have the assistance of counsel to the board in taking the testimony in that case? A. I believe not.

Q. Can you recollect now in about how many cases you have sat as a commissioner where complaints have been made against either the uniformed force or the ununiformed employes? A. I do not now remember the time, but with a very few exceptions once a week since I was appointed.

Q. Is there any fixed hour for the trial day? A. The usual hour is 11 o'clock in the morning.

Q. What is the trial day? A. Wednesday; usually Wednesday, and that—

Q. That is the same day that the board has its meetings? A. Yes, sir.

Q. And all trials are set down for that day? A. Not all of them, but the majority of them.

Q. Well, all trials that are held are set down for Wednesday? A. Yes; that is the regular trial day.

Q. And you say the sessions of the board last from one to three hours? A. Yes, sir.

Q. And that includes the time which they spend in the trial of these cases, does it? A. Oh, no; no; sometimes we have a meeting after the trials have been concluded, to consider the various cases in order to pass judgment.

Q. Well, is that time so spent included in the one to three hours that you refer to? A. No; that is in addition.

Q. Well, do you know of many cases in which the time has been expended beyond three hours in virtue of the necessities for considering the evidence in cases where complaints have been preferred? A. No; but sometimes we hold a meeting the following day, on the cases which we have tried on Wednesday.

Q. Have such meetings been frequent? A. Yes, sir.

Q. As often as once a week? A. No.

Q. As often as once a month? A. Probably, yes.

Q. Now, will you explain to the committee the manner in which applications for appointment to the uniformed force are examined and appointed? A. How they are appointed?

Q. Yes. A. Well, in the course of the year applications are made by men who desire to become firemen; these applications are kept on record; then the men are sent to the surgeon of the board to be examined as to their physical ability.

Q. Who is the surgeon? A. Dr. Ives; and two assistants.

Q. Who are the assistants? A. I can't name the names.

Q. After having been examined what happens to the man? A. Then later his name is sent to the civil service board, and after that when a number of vacancies exist — when such a number of vacancies exist as to make it necessary to fill the vacancies, a requisition is made upon the civil-service board for the number of men that have passed to cover the number of vacancies existing.

Q. Has the fire department any representative among the civil service examiners? A. Yes, sir.

Q. Who? A. Chief Bonner.

Q. Do you know what you certify to the civil service board when you certify that a man has passed the surgeons and that you desire him to be examined? A. I don't understand.

Q. When you certify to the civil service board that a man has passed the surgeons and that you desire that he should be examined, do you know what you certify to the civil service board? A. Yes.

Q. What do you certify to them? A. That he is physically competent; that his character, I believe, has been investigated; at least, I know we have investigated his character, his antecedents, and so on as to his age, etc.

By Senator AHEARN:

Q. The chief of the department, commissioner, investigates the character of the man before his name is submitted to the civil service board, doesn't he? A. Yes.

Q. The chief of the department investigates the man's character? A. Yes, sir.

By Mr. IVINS:

Q. You investigate the question of character in the first instance, do you not? A. The chief of department directs it to be done.

Q. It is done, however by him for account of the board? A. Yes, sir.

Q. And nobody gets certified to the civil service examiners for examination unless upon the investigation into the character of the applicant and a report made that his character is — A. — Good.

Q. — Good, such as to qualify him to be a proper member of the force? A. Yes, sir.

Q. And in that way, before the question comes before the civil service examiners at all, is it not a fact that the board of fire commissioners, through its subordinates, has a virtual veto upon the name of any applicant in case they see fit to report that his character is not satisfactory? A. It can not be a veto; I do not know what it might be called; the department has something to say about it, but a veto



would, in my opinion, be an after action; action after the action of the civil service commission.

Q. You have no veto after the action of the civil service commission? A. No, sir.

Q. Because you have certified, in the first instance, that the person is qualified, so far as the physical ability and character are concerned?

A. Yes, sir.

Q. But if your subordinates were to report adversely on the question, either of physical ability or character, then it would be impossible for him to get into your department, would it not? A. I suppose it would, because it would be not proper that he should be in the department.

Q. And those two investigations which are preliminary to any work on the part of the civil service board are made by your board quite unhampered? A. The civil service commission prescribes certain rules as to age and height of a man, etc.

Q. Now, I find by reference to the report, page 15, that by general orders No. 4, May twenty-ninth, Deputy Chief of Department McCabe was assigned to the district lying on the north of Twenty-third street, with headquarters at number 165 West Twenty-ninth street, and that thereafter he would command the seventh, eighth, ninth, tenth, eleventh and twelfth battalions and have entire control of the working force of fires within the district except when the chief of department is present; can you tell us now why that general order was made and why chief of department McCabe was assigned to that district? A. It was done by the chief of the department.

Q. On his recommendation; I find that Deputy Chief of Department Reilly was assigned to the district lying south of Twenty-third street; was that done on the same recommendation? A. Yes, sir.

Q. At the time that was done did the chief of department give any reasons why these particular assignments should be made? A. I believe not.

Q. You voted for that general order, did you? A. Yes, sir.

Q. And you voted for it simply on the recommendation of the chief? A. Yes, sir.

Q. Made no further inquiry? A. No; he is supposed to know more about those matters than I do, and I would hesitate very much to counteract any recommendation of the chief in that respect.

Q. Do you know to what particular districts these two deputy chiefs of department were assigned prior to the passage of general orders No. 4? A. I do not, because I was not in the department, except, perhaps, a week or two.

Q. Now, I find that section three of general orders No. 4 prescribes that at the expiration of a period of three months, commencing on receipt of this order, they (referring to the two deputy chiefs of department), will each exchange commands and headquarters without transfer of public property of any kind, and so continue in each quarter, each one performing the duty of the other while so located; did you vote for that as part of general orders No. 4? A. I suppose I did.

Q. Now, will you tell us just what that means, and why that was done, as part of the policy of the board? A. Well, I suppose—the chief gave his reasons at that time; I do not remember them, especially now, what they were.

Q. Well, what do you understand that to mean? A. Oh, it means that they should be transferred from one—

Q. Does it mean that they shall change off every three months? A. I think so.

Q. Change with each other? A. Yes.

Q. Why should they change with each other every three months, instead of every year, or every three months, or not at all? A. I can not say.

Q. Well, you regard that as a very important part of these general orders, do you not? A. Well, I regard it as one of the recommendations which the chief makes, and I would hesitate very much to vote against any recommendation of the kind which the chief makes as to the handling and position of the uniformed force.

Q. Well, this changes the command, so far as the deputy chiefs are concerned, every three months, does it not? A. Yes.

Q. Do you know of any reason why the command should be changed every three months? A. No; I do not.

Q. Did you ask the deputy chief to give you any reasons for the suggestion on his part of the passage of these general orders? A. I have no doubt that I did, but I don't remember.

Q. In these same general orders No. 4 I find that it is provided that the duties of the instructor at the school of instruction shall be performed by the deputy chief of department, whose headquarters are at 165 West Twenty-ninth street, at the time the instruction was in progress; can you tell us what the school of instruction is, and why the deputy chief, who happens to be located at 165 West Twenty-ninth street, should be the instructor? A. I suppose he has special facilities and knowledge.

Q. What is the school of instruction? A. Well, the instruction of members of the fire department in their duties.

Q. In their duties? A. Yes, sir.

Q. In what duties? A. Their duties as firemen.

Q. Generally? A. Yes, sir.

Q. Is it not a school of physical training for the purpose of equipping them? A. Well, that is part of their fire department.

Q. Now, does the school of instruction cover anything more than that? A. Yes; it does.

Q. Is it a school in the fire department in which the firemen are instructed as to what the general duties of a fireman are? A. Yes.

Q. Well, do you know of any reason why that should not all be done and discovered before the man is appointed as a fireman? A. He is not appointed before that is done; he is not appointed before that is done, not finally appointed.

By Senator FASSETT:

Q. The school of instruction is a school for applicants? A. Yes—no; after they have passed a civil service examination, and they are temporarily appointed, but not finally until we receive the report as to their fitness.

By Mr. IVINS:

Q. Who is the instructor at the school of instruction at the present time? A. I do not remember.

Q. Do not remember which of the deputy chiefs is now instructor? A. No.

Q. Does the work of the school of instruction ever come under your particular eye? A. No—part of it, when the exercises are had in the rear of the building, of the headquarters building.

Q. I find in these same general orders, which you say were recommended for passage by the chief, that section 7 provides that it is made the duty of the deputy chiefs of department to make occasional inspections of battalions in their respective districts; do you know whether inspections are made at any regular times, methodically and systematically? A. I do not know, but I have no doubt they do.

Q. Do you know whether the inspections are only occasional? A. No; they were not, according to instructions; I have no doubt their failure to do so would be reported to the board.

Q. Do you know whether there is any regular calendar made for inspections at given times in addition to the occasional inspections? A. I do not; the chief will tell you that; most of these matters are details of which the chief has cognizance, and I am not the chief of the department; I am not supposed to run to the fires, nor to go into a burning house and climb ladders, anything of that kind.

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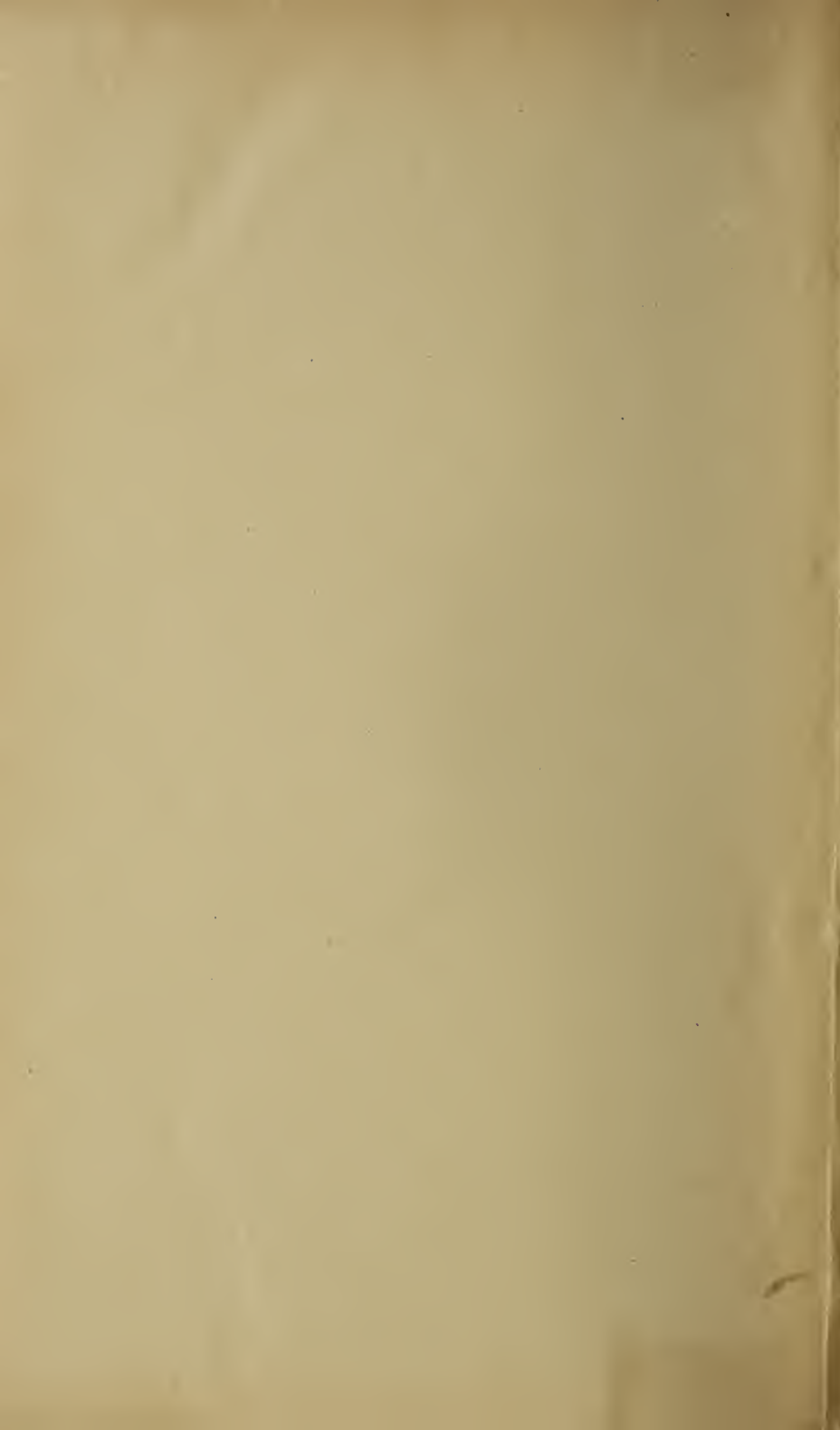
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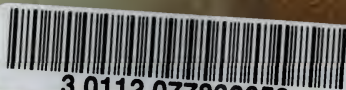












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